



**LOCAL GOVERNMENT**  
**IN**  
**MANY LANDS**





# LOCAL GOVERNMENT IN MANY LANDS

A COMPARATIVE STUDY

BY

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## PREFACE

IN 1923, the Colonial Office, India Office and Foreign Office undertook at the request of the Royal Commission on Local Government, of which Lord Onslow is Chairman, to obtain information of an authoritative character on the systems of local government in force in the British Empire and in a number of foreign countries.

It was my duty as an officer of the Ministry of Health to superintend the preparation of certain memoranda, based upon the particulars thus obtained, which have been laid before the Commission.

I have been authorised to employ the material furnished to the Commission and available in the Ministry of Health as the basis for the present work, which further includes a chapter on the local government of England and Wales, Scotland, the Irish Free State and Northern Ireland.

The work has appeared in French at the instance of the Union Internationale des Villes et Communes, who have been so good as to place at my disposal the resources of their organisation for translating and circulating the volume.

I desire to acknowledge my obligations to the public authorities concerned for the permission accorded to me to make this use of the material which is the main source of my information.

The most recent publications, whether official or otherwise, have also been consulted, and references to some of them are given at the end of each chapter, but it was felt that a complete list of relevant statutes and official reports would occupy a disproportionate amount of space in a work of this description.

I have, moreover, to thank a number of correspondents,

who have been so kind as to check my chapters on their respective countries so far as the facts are concerned, though taking no responsibility for any conclusions I may have drawn from them. These include M. A. Brugge-man (France), Mr. H. O. Frind (Canada), Prof. Giusti (Italy), Mr. E. H. Griffith (U.S.A.), Major G. A. Harris, D.S.O., O.B.E. (Northern Ireland), M. Lindhult (Sweden), Mr. E. P. McCarron (Irish Free State) Prof. Dr. Norden (Germany), Dr. de Schulthess (Switzerland), Mr. Van Poelje (Holland), Senator E. Vinck (Belgium) and Mr. W. E. Whyte (Scotland).

Lastly, my obligations are many to Miss E. A. Charlesworth and other officers of the Intelligence Division of the Ministry of Health, whose assistance has been invaluable to me.

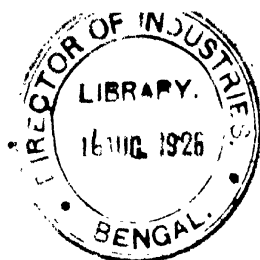
G. MONTAGU HARRIS.

*December, 1925.*

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# LOCAL GOVERNMENT IN MANY LANDS

## CHAPTER I

### INTRODUCTORY

FOR the purposes of this book the term "local government" has been held to include all forms of public administration within sub-divisions of the area of a sovereign State, whether that administration is exercised by locally elected bodies or by State officials.

The question of the distribution of powers between federal and provincial or other governments in sovereign States having a federal constitution has been held to fall outside the scope of a book on local government as thus defined, and has therefore not been dealt with. Thus in application to Germany, the United States of America, Switzerland, Canada and Australia, the term "local government" will be held to apply only to the jurisdiction of the bodies subordinate to the governments of the state, province or canton. The provinces of South Africa, as will be explained, stand on a somewhat different footing.

So far as space allows, an outline will be given of the system in force in each country and some appraisal will be attempted of the actual extent of local self-government prevailing under each system.

The distinctions of meaning between "local government," "local self-government," "local autonomy," and similar terms have been frequently discussed. It is not proposed here to reopen the arguments, but it is necessary to explain that, throughout this book, "local self-govern-



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ment" is held to embrace two ideas, of which the first is that of the power of the local authority, whatever it may be, to act independently of any external control.

Complete local self-government in this sense is a contradiction in terms, for any authority which possessed it would be a sovereign State, and therefore in no sense "local." It is therefore here a question of the degree of independence which a local authority possesses, whether of other local authorities or of the central government.

It is suggested, however, that mere independence of external control does not satisfy the principle of self-government unless there is allied with it the participation of the community as a whole in the public administration. Here, again, it can be as a rule only a question of degree. Although it will be found that there are still existing instances of direct government by the whole body of the people, the large populations of modern times render such a system generally impracticable except to the extent realisable by such devices as the referendum.

These will be two of the main points considered in comparing the system of one country with that of another, but it must not be supposed that it is thereby implied that the greater the amount of self-government that exists, the better therefore is the system.

The races of the world differ too fundamentally in temperament, in history, in habits and customs, for any one system of government to be equally appropriate to all of them. Even within the same country, variety and elasticity in administrative matters are factors of enormous value. "One man's meat is another man's poison" is a homely tag, but a true one, and it is impossible to avoid quoting, in this connection, the well-known lines of Pope :—

"For forms of government let fools contest,  
Whate'er is best administered is best."

The full implication of those lines may not be accepted—and will not be by those who believe in local self-

government from the educative as well as from the administrative point of view—but, so far as Pope intended to convey that the substance is of more importance than the form, his maxim is a sound one.

Nevertheless, in spite of these considerations, the study of forms of government is no idle task. The form both expresses and at the same time exercises an influence on the substance. And, although it would seldom, if ever, be wise for one nation to adopt wholesale the governmental institutions of another, whose racial and national history ran on altogether different lines, there are few countries which are not searching for some means of improving one or another portion of their governmental machinery, and it might well be that such means might be found, in some instances, by the adaptation of a method already in force elsewhere.

The order of the following chapters is arranged with intention. France is treated first, and at greater length than some of those which succeed, because the French methods have been deliberately followed in the case of several countries and have had considerable influence on others. The systems of Belgium, Holland and Italy follow, since they most closely resemble the French. Spain is placed next, for, although its local government legislation contains a number of features peculiar to itself, it resembles the French more than any other. The systems of the countries of the Scandinavian group are also largely based on French principles.

The German organisation proceeds on different lines. The basic principles of the German methods are described as briefly as the elaborate character of the machinery allows, and different branches of administration are dealt with as illustrations under sections devoted to the several states, with special reference to the new local government constitutions. These, however, are in so unsettled a state that it cannot but be feared that much of the information contained in those sections will be out of date by the time this volume reaches the public.

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Swiss local government partakes of French or German characteristics according to the origin of the several cantons, and the chapter on Switzerland is followed by one dealing more briefly with several of the smaller countries of Eastern Europe. Although the new methods in Russia would no doubt be interesting from the comparative point of view, the difficulty of obtaining any reliable information as to the system really in force under Soviet rule was such that it appeared best to omit it altogether.

Great Britain exhibits a completely different conception of local government administration from that of any of the countries already mentioned. After a description of the systems in England, Scotland and Ireland, including the Irish Free State, a chapter is given on the British Overseas Dominions, in which the British principles are closely followed, though with interesting developments and divergencies. The variety of forms adopted in the different provinces or states of these countries renders it necessary to deal with the subject very generally so far as they are concerned, and this applies even more to the United States, which comes next in order.

Limitations of space are responsible for the omission of any mention of the countries of South America, while the continents of Africa and Asia (excepting British South Africa and British India) do not seem to lend themselves to the scheme, even if full information were readily available. A chapter is, however, included on the system of Japan.

The final chapter is a brief summary of the most salient facts illustrating the extent of local self-government which exists in the various countries.

## CHAPTER II

### FRANCE

THE administration of Gaul under the Roman Empire, like that of the other provinces, while at first providing for a considerable amount of municipal autonomy, the forms of which have left their mark until to-day, later developed into a bureaucratic centralisation. This disappeared with the fall of the Empire, although the Frankish monarchy retained some of its methods.

The feudal system completely destroyed for the time being the power of the central Government. Towards the end of this period of national chaos, urban communities gradually succeeded in attaining municipal liberties, which were guaranteed by charters. These charters, sometimes gained by force of arms, sometimes by mere bargaining, were in fact treaties or agreements with the feudal lords, and were not based on any pre-conceived principle or general scheme of local government.

As the king regained power over the great lords, the centralising tendency again showed itself in full force and, from the fourteenth century onwards, the autonomy of the chartered towns as well as that of the territorial aristocracy was gradually extinguished. This policy reached its culmination in Richelieu and Louis XIV., but their aim of making a France one and indivisible continued to be pursued by the statesmen of the Revolution and by Napoleon I.; the division of the country into departments being due to the desire to destroy the old provincial spirit.

Nor has there been any inclination in more modern times to depart from this policy. Governments, whether monarchical, imperial or republican, have been equally anxious to preserve the unity of France and have held that

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the only way to do this is by keeping the whole administration strictly subordinate to the ruling powers in Paris. The nation is clearly in accord with its governments on this point. There has been, and is, no movement for any substantial changes in the system, and those who advocate "regionalism," on the ground that larger areas are needed for local administration in these days, find that the principles which this policy represents are the greatest obstacles in their way.

### THE COMMUNE

The unit of local government in France is the commune. Communes existed from early times, but in their present form they date from the great Revolution, the Constituent Assembly in 1789 decreeing that there should be a commune for each "city, town, parish or rural community," making a total of 44,000.

The principle of equality was considered to be as applicable to local authorities as to individuals, and therefore the old distinctions between boroughs, market-towns and villages were swept away and all communes were placed on an identical footing. This principle holds good to-day. With the exceptions of Paris and Lyons, every commune, whether a flourishing industrial city, a small country town, or a purely rural district, has the same form of constitution and the same powers and duties.

The total number of communes in France in 1921 was 37,963. Of these about 22,000 had a population of 500 or less, 374 having less than fifty. At the other end of the scale there were twelve communes with from 100,000 to 400,000 inhabitants and two with a population between 400,000 and 1,000,000.

The area of the communes varies from ten acres to 400 square miles, the average being 3,645 acres.

Every commune has a *Municipal Council* (Conseil municipal), consisting of ten to thirty-six members, according to the population, elected for four years.

Every Frenchman over twenty-one years of age having a six months' residential qualification in the commune is entitled to vote.

Communes with over 10,000 inhabitants may be divided into wards for electoral purposes, but, where this is done, each ward must return at least four members.

Any communal elector or ratepayer, who is twenty-five years of age, is eligible for election, provided that he is not in receipt of poor relief, is not under sentence of law or under supervision of a judicial council, and is not a public official for the district, a salaried official of the commune, a teacher or a domestic servant. In communes having over 500 inhabitants, parents and children, grandparents and grandchildren, brothers and brothers-in-law, cannot be members.

Women have no vote, and are not eligible for election.

The municipal council must meet at least four times a year, its meetings being open to the public. The budget session may last for six weeks, the others for fifteen days.

Nominally the municipal council has a general power to resolve upon any action which they may think desirable in the interests of the commune, provided that it is not specifically excluded by law from their functions, and to direct the mayor to carry it out. This power, however, is limited by :—

- (a) restrictions on their taxing powers ;
- (b) the need for the approval of the prefect as regards most financial proposals ;
- (c) the need for the approval of the council-general of the département as to action relating to fairs and markets ;
- (d) the jurisdiction of the administrative courts ;
- (e) the power of the prefect to suspend and of the central Government to dissolve the municipal council.

Such functions of local government as are obligatory are imposed, not on the municipal council, but on the

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mayor, who is, however, bound to consult the council and to act subject to their control.

*The Mayor* (Maire) is elected by ballot, by and from among the members of the municipal council, for four years. He is unpaid.

As agent of the central Government he is charged with the local promulgation and execution of general laws and decrees. As such, he may be suspended for one month by the prefect and for three months by the Minister of the Interior, and may be dismissed by decree.

As executive head of the municipality, he supervises the police, revenue and public works, and acts generally as representative of the commune.

The object of "municipal police," for which the mayor is responsible, is stated to be "to secure order, public safety and public health," and to include such matters as ensuring freedom of traffic, cleaning and lighting of streets, demolition of dangerous buildings, and the maintenance of order.

The mayor is also registrar of births, marriages and deaths, officiates at civil marriages and presides over the school commission. He appoints most of the subordinate officials of the commune.

*Deputy Mayors* (Maires Adjoints) are elected in the same way as mayors. There is usually one in a commune of 2,500 inhabitants or less, and a larger number, up to twelve, in the more populous communes. Lyons has seventeen.

*The Mayoral Secretary* (Secrétaire de Mairie) is usually, in the smaller communes, the local schoolmaster, but elsewhere he is a full-time official.

### THE CANTON AND THE ARRONDISSEMENT

The *Canton* and the *Arrondissement* are administrative divisions between the commune and the department, but are not of great importance. The former is a group of communes forming an area for certain judicial purposes

and for elections. The latter, which was created in 1800, and reorganised in 1833, is an administrative subdivision of the department.

For each *arrondissement* a *Council* of not less than nine members (at least one from each *canton*) is elected for six years. This council meets regularly before and after the August (financial) meeting of the council-general of the department, to make representations on the proposals and to assess upon the communes their shares of the taxes imposed upon the *arrondissement*, and may meet at other times to express views upon departmental affairs. It has no property and no budget.

The *Sub-prefect* (appointed by the central Government) occupies in the *arrondissement* a similar position to that of the prefect in the department, but has only such powers as the prefect allows him.

#### THE DEPARTMENT

The division of the country into departments was effected by the Constituent Assembly in 1789. The Consular Law of 28 Pluviôse of the year VIII. (1800) provided for the government of the departments by prefects and councils-general, all nominated by the First Consul. In 1833 councils-general were made elective on a limited suffrage, which was enlarged to manhood suffrage in 1848, and in 1871 the existing system was established.

The total number of departments in 1921 was ninety, their populations varying from 89,275 to 4,441,691, and their area from 185 to 4,140 square miles, the average being over 2,000 square miles.

The *Prefect* (*Préfet*) is the head of the department, and is the sole responsible executive official. He is nominated by the Minister of the Interior and appointed by the President, and holds office until he is promoted or superseded.

There is no legal qualification for the post. The



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appointment is largely political, the prefect being expected to act as the political and electoral agent of the Government of the day. The salary (in 1916) was 18,000, 24,000 or 35,000 francs, according to the class of prefecture.

The prefect is the local agent of all the central ministries. He appoints nearly all the subordinate officials in the department, including school teachers. He has very wide powers as regards police and public health for the whole department, and has considerable powers of control over the communes and their mayors.

The prefect appoints his own "Chef de Cabinet," who is practically his private secretary, and also the clerical staff of the department, with the exception of the *General Secretary*, who is appointed by the Central Government, no special qualifications being necessary.

The *Prefectoral Council* (Conseil de Préfecture) consists of three members appointed by the central Government and paid a small salary. They must be at least twenty-five years of age, and must be lawyers or have received an administrative training. They may advise the prefect, but he is not obliged to follow their advice. Their main function is as an administrative court of first instance.

The *Council-General* (Conseil-général) is the representative body of the department. It consists of seventeen to sixty-seven members, each canton contributing one member. The members are elected for six years, one-half retiring every three years. Members must be at least twenty-five years of age and must be electors or entitled to be electors. Departmental officials may not be members and no one may be a member of more than one council-general.

The council elects its own chairman and makes its own rules of procedure. Its sessions are public. There are two ordinary sessions in the year, and extraordinary sessions may be summoned by direction of the central Government, or at the request of two-thirds of the coun-

cillors. The prefect may be present and speak except when his accounts are being examined.

The functions of the council-general, unlike those of the municipal council, are specified by Act of Parliament—mainly by the law of the 10th August, 1871. They include the assessment upon the several arrondissements of their shares of liability for the direct taxes, the fixing of departmental taxes within the legal limits and the approval of departmental loans, the maintenance of departmental roads and other public works, training colleges for elementary and secondary school teachers, provision for destitute, orphaned and abandoned children, and (at their option) the establishment and maintenance of institutions for poor relief, lunatic asylums, &c.

The council-general is also required to give its opinion upon questions referred to it by the central Government and may pass resolutions on any subjects other than political.

The resolutions which may be passed by the council-general are, from the point of view of their executive character, of four kinds, viz.:—

- (1) Those which become executive within two months if not annulled by decree as being *ultra vires* ;
- (2) Those which become executive within three months if not annulled by decree as being contrary to the public interest (there are few of these, relating mainly to alienation, etc., of departmental property) ;
- (3) Those which need authorisation by decree (these are also few in number, and are mainly concerned with finance) ;
- (4) Expressions of opinion, etc., which have no executive force.

In addition to these limitations on their powers and to the general control exercised by the prefect, the departments are subject to financial restrictions and to the administrative jurisdiction of the Conseil d'Etat, both of which are explained later, and councils-general can be dissolved by governmental decree.

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The council-general must appoint annually a *Départemental Standing Committee* (Commission départementale) of four to seven members, which must meet at least once a month. The employees of this body are appointed by the prefect, who may attend its meetings, which are private.

This standing committee can exercise any powers delegated to it by the council-general, except those of levying a rate or borrowing moneys, but the council-general can only delegate distinctly specified functions which can be completed within a definite period. They cannot divest themselves of their powers generally.

The "commission départementale" has also certain functions in its own right, including that of examining and reporting upon the prefect's budget proposals, the investigation of the financial administration of the prefect, from whom it receives monthly financial statements, the allocation of certain of the departmental revenues, and the approval of contracts passed by the prefect.

### FINANCE

The chief source of local revenues, whether for communes or departments, is found in the system of "centimes additionnels," the principle of which is that each local authority is entitled, for its own purposes, to add a certain percentage to each of the "direct taxes" which it is required to raise for State purposes.

The taxes to which this addition may be made are the land tax, the land and buildings tax, the tax on the rentals of houses and apartments, the door and windows tax, and the licence tax on trades and professions.

The number of "ordinary centimes" which may be added to each of the direct taxes by department or commune is fixed by general law, but the communal "extraordinary centimes," and a further number of centimes which may be added by the communes "for insufficiency of revenue," are subject to a maximum which is fixed annually by the council-general within a limit laid down

by the annual Finance Law. This maximum may, however, be exceeded by permission of the prefect.

The additional centimes form more than one-half of the revenues of the departments, the remainder being derived from an assigned portion of the State business turnover and motor taxes and miscellaneous receipts. A general credit of about four millions of francs is voted annually to the Minister of the Interior for the purpose of aiding necessitous departments.

The communes have a far greater variety of resources than the departments. Besides the additional centimes to the direct taxes, they receive a portion of the State taxes on business turnover, on horses and carriages, on alcohol, and (in the case of mining communes only) on mines. They can themselves levy octroi duties (*i.e.*, on articles of food entering a town) subject to the approval of the superior authority, and local taxes on dogs, entertainments, mineral waters, visitors, animals for sale or slaughter, and any other tax which receives the sanction of the legislature, and they obtain further revenue from fees, licences and tolls, and returns from communal property. State grants-in-aid are given for a large number of purposes.

There is a distinction drawn between "ordinary" and "extraordinary" expenses, and "ordinary" and "extraordinary" centimes, the former generally referring to obligatory, and the latter to optional services, but the distinction is not strictly adhered to, and the classification is therefore arbitrary and complicated.

Both departments and communes are free to raise loans for periods up to thirty years, provided the loan charges do not go beyond the maximum allowed for "additional centimes." For loans requiring a greater number of centimes, the communes need the approval of the prefect, and for loans of longer duration communes or departments must obtain a decree of the Council of State.

The communal budget is proposed by the mayor, voted by the municipal council, and settled by the prefect, but

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in towns with a revenue of at least 3,000,000 francs, the budget must have the approval of the President of the Republic, on the proposition of the Minister of the Interior.

The departmental budget is prepared by the prefect, examined by the "commission départementale," voted by the council-general, and settled by decree.

In the case of both commune and department, if the budget does not contain sufficient provision for obligatory services, the prefect has power to insert the additional items of expenditure and, if necessary, impose extra taxation to meet them. This is known as "inscription d'office."

### PARIS

The administration of Paris and the Department of the Seine differs from that for the rest of France.

The *Prefect of the Seine* stands in relation to the Department of the Seine (including Paris) in the same position as the prefect of any other department. At the same time, he exercises all the functions of a mayor of Paris except those of "police."

These latter functions (which include the supervision of sanitary regulations, unhealthy or dangerous industries, regulation of traffic, etc.) are exercised by the *Prefect of Police*, who is a colleague, not a subordinate, of the Prefect of the Seine, and is appointed and dismissible by the President of the Republic, on the advice of the Minister of the Interior.

The *Municipal Council* of Paris consists of eighty members, elected by manhood suffrage for four years and paid. There are six standing committees of the council, and special committees are also appointed from time to time. The powers, however, of both council and committees are almost entirely advisory, the subordination of the council to the two prefects being even more complete than that of other councils throughout the country.

The *Council-General of the Department of the Seine* con-

sists of the members of the Municipal Council of Paris, together with forty members from the two arrondissements outside Paris. Almost all its decisions require Government approval. There is no "commission départementale."

For subordinate administrative purposes Paris is divided into twenty arrondissements. In each there are a mayor and three deputy mayors (or five for any arrondissement with more than 120,000 inhabitants). They are appointed by the President of the Republic and are merely the agents of the prefect of the Seine.

Much use is made in Paris of advisory boards. The *Conseil d'Hygiène et de Salubrité*, which meets regularly and is consulted upon all branches of public hygiene, is composed of persons nominated by the central Government, two members of the municipal council, and such *ex-officio* members as professors of the faculty of medicine at Paris, the director of municipal public works, the president of the Army Sanitary Board, the chief architect, two engineers holding official posts, and others, with the prefect of police as chairman. There is a similar local committee for each arrondissement, meeting monthly under the chairmanship of the mayor, which reports on local conditions to the central council.

Public assistance in Paris (including the administration of hospitals, asylums, etc.) is supervised by a Board consisting of the two prefects and eighteen other persons, of whom five are appointed by the President of the Republic, two must be members of the municipal council, and the remainder have certain qualifications. There is in each arrondissement a *Bureau de Bienfaisance*, composed of the mayor and twelve administrators, and the arrondissement is in turn divided into twelve districts, each of which is under a member of the local *bureau*.

A Bill has been introduced (February, 1925) by certain Paris deputies to divide Paris into five communes, each having a municipal council, mayor and deputy mayors, the police, however, remaining under the State and the

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council-general of the Seine retaining its present powers. It is further proposed to provide that the mayors and deputy mayors of the five communes shall form an inter-communal committee to consider questions affecting two or more of the Parisian communes.

### ADMINISTRATIVE JURISDICTION

It is an established principle of the French system of government that the administrative authorities are independent of the ordinary courts of law. The system of administrative law with special courts therefore exists to decide disputes between administrative authorities and between those authorities or their officials and private persons.

The supreme administrative court is the *Council of State* (Conseil d'Etat), which is under the presidency of the Minister of Justice and consists of the Ministers and of thirty-five "ordinary" paid councillors, appointed and dismissible by the President of the Republic by decree adopted in the Council of Ministers, and twenty-one "extraordinary" unpaid councillors, who must be persons actively engaged in the ordinary administration and are appointed and dismissible by simple presidential decree.

The Council of State, as supreme administrative court, acts by—

(1) The *section spéciale du contentieux*, concerned with matters relating to elections or rates, consisting of a president and twelve ordinary (paid) councillors (which, again, may be divided into two or more sub-sections, having power to act).

(2) The *section du contentieux* which deals with most of the other questions coming before the Council, and consists of a president and nine ordinary (paid) councillors.

(3) The *assemblée publique du contentieux*, which consists of the section du contentieux, strengthened by the addition of further ordinary councillors and presided over by the

vice-president of the Conseil d'Etat, and deals with certain matters of special importance, including any actions for annulling the acts of an authority on the ground that they are *ultra vires*.

There is no appeal from the decision of the Conseil d'Etat.

The administrative court of first instance is the *Prefectoral Council* for each department already described, which deals with appeals against assessments and against the action of mayors (e.g., in respect of insanitary dwellings), disputes under the election laws, cases arising from the sale of domains and in connection with public works, some questions as to indirect taxes and many other matters.

There is an appeal from the prefectural council to the Conseil d'Etat within two months.

#### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—Apart from the general obligation laid upon the mayor to secure the public health as one of the branches of "municipal police," the Public Health Law of 1902 requires him, after taking the opinion of the municipal council, to make by-laws (which must be approved by the prefect) for the prevention of the spread of infectious disease and for ensuring the good sanitation of houses and private ways, furnished lodgings, etc., especially as regards water supply and disposal of sewage. Model by-laws for urban and rural communes are supplied.

In towns having a population of 20,000 or over and in communes which are health resorts and have a population of at least 2,000, a "*bureau d'hygiène*" must be appointed by the municipal council to administer the law of 1902 under the authority of the mayor, in accordance with certain regulations.

The prefect, who has wide powers, both direct and indirect, in relation to the public health of the whole department, is advised by a *Departmental Council of*



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*Hygiene*, consisting of two members of and elected by the council-general, three physicians, one chemist, the chief engineer, an architect and a veterinary surgeon.

EDUCATION.—The French educational system is completely nationalised—mainly under the Ministry of Public Instruction, but agricultural education is directed by the Ministry of Agriculture and technical and commercial schools are controlled mainly by the Ministry of Commerce.

The Minister of Public Instruction is advised by a *Conseil Supérieur de l'Instruction Publique*, consisting of fifty-seven members including the Minister, who presides. Thirteen members are nominated by the Ministry, and the remainder are elected by educational institutions, etc.

For educational purposes, France is divided into seventeen university "regions" or groups of departments.

The department is the administrative unit for elementary education. The heads of the organisation in the department are the prefect and the academy inspector, who are respectively chairman and vice-chairman of the *Conseil départemental de l'enseignement primaire*, formed of two heads of training colleges, two inspectors of elementary schools, four councillors-general, and two male and two female teachers elected by their colleagues.

The prefect appoints all teachers in elementary schools.

The elementary school buildings are provided and maintained by the communes, but, where necessary, a Government grant-in-aid is given for building purposes.

Delegates for each canton are appointed by the council-general to visit the schools. In each commune the mayor has a right to visit the schools and to have them medically inspected, and he presides over a local "school commission."

Each department must establish and maintain a teachers' training college, but the central Government pays the salaries of the teaching staff and the keep of the pupils. The central Government also maintains certain central colleges.

Secondary education is given—

(1) In colleges provided and maintained by the communes, which must also undertake to pay the salaries of the principal and professors for a period of five years at least. The State allows the commune annual grants under certain conditions, where, for instance, the salaries of the staff are guaranteed for ten years ; it pays increments to professors and gives grants to cover part of the deficit in running these institutions. This grant may not be less than 80 per cent., nor more than 90 per cent. of the sum represented by the amount of the moneys provided by the State and the commune, under an agreement of 1914, plus any loss or minus any profit entailed in the management of the boarding-house attached to the college.

(2) In *lycées* provided and maintained by the State, the department and the towns. Communes provide and maintain the building. They may obtain grants for repairs, but these grants must not exceed 50 per cent. of the total expenditure.

HIGHWAYS.—The roads in France are classified as follows :—

(1) *National Roads* (Routes nationales).

(a) Leading from Paris to the frontiers or large military and naval stations ;

(b) Similar roads of somewhat less importance ;

(c) Connecting important provincial towns with Paris or with one another.

(2) *Departmental Roads* (Routes départementales), connecting the principal towns of a department or of adjoining departments.

(3) *Vicinal Roads* (Chemins vicinaux).

(a) De grande communication. Those which connect communes with the principal towns or a large railway station ;

(b) D'intérêt commun. Those which connect a group of communes with the local centre or with a secondary railway station ;

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(c) *Ordinaires*. Those which connect communes or hamlets with one another.

(4) *Urban Streets* (Rues).

Streets in cities or towns which do not form continuations of national or departmental roads.

(5) *Rural Roads* (Chemins ruraux).

Mainly footpaths.

The national and departmental roads (otherwise known as *la grande voirie*) are under the general control and supervision of the Minister of Public Works, represented in the department by the prefect. The streets of Paris (owing to the extensive Government grants) are also included in *la grande voirie*.

All national roads must be, and departmental roads may be (and commonly are), constructed and maintained by a special office of the central Government, *le Service des Ponts et Chaussées*, and the expenses are borne by the central authority and the department respectively.

The classification of these roads is made by a ministerial order or a vote of the council-general, but the construction of a new national highway requires a special law.

The regulation of traffic on both these groups of roads is in the hands of the prefect.

The remaining roads (*la petite voirie*) are all under the control of the Minister of the Interior, represented locally by the mayor and in some cases by the prefect; they are constructed by the communes and the expenses are met in various ways.

The maintenance of the first two classes of vicinal roads is compulsory, and the communes generally receive grants-in-aid from the departments towards the expenditure. For *la petite voirie* as a whole they often receive grants, and more frequently loans, from the central Government.

The classification of these roads is made by resolution of the local authorities; for the more important groups by the councils-general subject to the approval of the prefect.

There has of recent years been a strong tendency for the councils-general to transfer all departmental roads to the charge of the inferior local authorities.

**PUBLIC ASSISTANCE.**—The prefect is responsible for the administration of certain obligatory services of public assistance, namely, those relating to (1) assisted children, (2) free medical relief, (3) mentally afflicted, (4) obligatory assistance to the aged, infirm and incurable, (5) large families, and (6) maternity. The cost of these services is imposed by law on the departments and communes, with the assistance of the State.

Within the communes are to be found (1) hospitals and hospices (*i.e.*, institutions for the infirm, etc.), (2) "bureaux de bienfaisance," and (3) "bureaux d'assistance." Every commune possesses a "bureau d'assistance," but not necessarily a hospital, hospice or bureau de bienfaisance. The bureau d'assistance, however (except in a commune where there is no bureau de bienfaisance), is merely a local organ for carrying out the departmental services. It consists of the members of the hospital boards; if no such boards exist, the bureau will be formed by the prefect.

The boards of hospitals or hospices (commissions administratives) consist of the mayor and six members, of whom four are nominated for four years by the prefect and two elected by the municipal council for the term of office of the council itself.

The boards of the bureaux de bienfaisance are similarly organised. They have power to assist the aged and others who are not eligible for the obligatory assistance supplied by the département. They are encouraged to help by other means than the grant of relief, *e.g.*, by finding work, housing, allotment gardens, etc.

The expenses of the bureaux are largely met by the "droit des pauvres," which is practically an entertainment tax. The communes also grant subventions and certain services receive State or departmental grants. The hospitals and hospices may also receive a share of the

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droit des pauvres, but their funds are obtained mainly from endowments, taxes on grants of land in cemeteries, the profits on municipal pawnshops, public collections, and payments by or on behalf of patients.

**POLICE.**—The *Gendarmerie* is a force (largely composed of old soldiers) organised and paid by the War Office, although it has relations also with the Ministries of the Interior and of Justice ; it patrols town and country, but looks especially after the country districts ; it acts under orders from its own military officers, whom the prefect for the department generally, and the police commissioner or mayor in the communes, “ requests ” to furnish aid in the punishment of crime or establishment of order.

In the communes the responsibility for the police and control over the municipal police agents (*sergents de ville*, agents de police, *gardes champêtres*, etc.) is with the *Police Commissaire*, or, where there is no commissaire, with the mayor.

There must be a commissaire in every commune of from 5,000 to 10,000 inhabitants, and an extra one for every additional 10,000.

The commissaire in the smaller towns is nominated by the prefect ; in towns over 6,000 inhabitants by the President of the Republic on the recommendation of the Minister of the Interior. He acts under the prefect's orders in matters of general interest, and obeys the instructions of the mayor in local matters.

In all towns of over 40,000 inhabitants (except Paris and Lyons, which have special police organisations) the *personnel* of the police is regulated on the advice of the municipal council by decree of the President of the Republic. In all other communes, the inspectors, constables and agents of all kinds are nominated by the mayor, with the approval of the prefect or sub-prefect.

The expenses of the municipal and rural police fall on the communes and are “ obligatory.”

## CONCLUSION

A recognised authority, M. Joseph-Barthélémy, says that "it is a common but serious error to say that modern France is still under the rule of Napoleonic centralisation ; the framework only remains," and that "after the great departmental law of August 10th, 1871, and the communal charter of April 5th, 1884, the elected councils may be said to rule the affairs of the department and the commune."

M. Barthélémy himself, however, points to the strength of the institution known as administrative supervision (*tutelle administrative*). "France," he says, "cannot be abandoned to the whims of eighty-seven general councils and 36,000 municipalities," and although "at first sight it would seem that the power of taking resolutions is more decentralised in the commune than in the department, actually all resolutions of any importance, all those which affect the life of the commune, can only be carried out with the approval of the prefect ; without such approval, the municipal council could not even change the name of a street."

The general impression, therefore, would not seem to be far wrong that local administration in France is still completely centralised, the powers of the elected councils, such as they are, being so restricted in the matter of finance and by the central control exercised through local officials directly responsible to the central Government, that local self-government exists, if at all, only on sufferance.

The only striking movement for any change in the local government system is the demand in some quarters for the creation of larger administrative areas than the department.

Many projects of this kind have been made from time to time, and these were considered in detail by a Parliamentary Committee, which reported in October, 1923. This committee expressed itself definitely in favour of

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"regionalism" in principle, and presented the draft of a Bill for the establishment of regions by the grouping of departments around twenty-nine defined centres—each department to choose for itself to which region it should be attached. The prefect of the department in which the regional capital is situated would be *ex-officio* the regional prefect, and there would be an advisory assembly composed of delegates from the councils-general of the departments. There would therefore be no new departure as regards the system of local government, since the relation of the region to the Central Government would be similar to that of the departments, but the regional authorities would be responsible for a number of specified duties suitable to be exercised over wide areas and each regional authority would decide for itself whether or not the minor divisions within its area (*i.e.*, the arrondissements and cantons) should or should not be abolished.

As regards this latter point, whereas it is suggested in many quarters that the continued existence of these divisions intermediate between the commune and the department is unnecessary, it is noticeable that the Fifteenth Congress of Mayors of France, in December, 1924, passed a unanimous resolution protesting against the suppression of arrondissements as administrative or judicial areas and suggesting that what was needed was a general scheme of reform in the nature of decentralisation within the four corners of the existing system.

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## CHAPTER III

### BELGIUM

THE Kingdom of Belgium commenced its separate existence in the year 1830, and the system of local government established within it is based partly on the French system, which was in force from 1795 to 1814, when Belgium was a part of France, and partly on that which was built up during the years 1815 to 1830, when it formed part of the Netherlands. No essential changes in the structure and powers of local authorities have since been made. At the end of the last century universal manhood suffrage with the plural vote was introduced and in 1919 the existing electoral system was adopted.

#### ELECTORATE

The electorate for the representative local councils consists of all persons of either sex of at least twenty-one years of age, who have been domiciled in the district for not less than six months. Voting is compulsory.

#### THE COMMUNE

The 2,636 communes into which Belgium is divided are all administratively organised on the same system, although their population varies from under 100 to nearly 300,000. There are, however, a few points in which large communes are differentiated from the smaller, as, for instance, in the matter of building regulations.

Some of the large towns, of which Brussels is one, consist of a group of communes, each with a distinct administration.

The *Burgomaster* (Bourgmestre) who is a representative

of the Crown as well as executive head of the communal council, is appointed by the King, as a rule from among the members of the council, but, with the concurrence of the permanent deputation of the provincial council (see later), he may be chosen from among the communal electors who are not members of the council. He holds office for six years ; his salary is fixed by the communal council.

As representative of the Crown the burgomaster is responsible for seeing that the laws and the royal and provincial decrees are carried out. He also fulfils the functions of registrar (*officier de l'état civil*) and chief of the local police.

The members of the *Communal Council* (*Conseil Communal*) are elected for six years on the basis of proportional representation, each commune forming a single constituency except in the case of Brussels, where, under a temporary provision, thirty-nine are chosen from the old city and eleven from the area added in 1921.

The conditions of eligibility for the communal council are native birth, twenty-five years of age, and domicile in the commune, but in communes of less than 700 inhabitants the last condition may be waived. Governors of provinces, members of the permanent deputation, provincial, communal and certain other officials are ineligible, and also persons within certain degrees of relationship. No person may serve on two communal councils at the same time.

The number of councillors (including the burgomaster and aldermen, who will be mentioned later) varies from seven if the population is less than 1,000 to forty-five if it is 300,000 or more. The councillors (other than the aldermen) are unpaid, but with the approval of the permanent deputation they may have a small allowance for out-of-pocket expenses, usually a ticket for each attendance at council or committee meetings.

The communal council meets as often as its business requires. The burgomaster is its president, and is

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entitled to vote unless he has been appointed from outside the council.

The sessions must be held in public when questions relating to the estate or finances of the commune are under discussion, unless two-thirds of the members present decide that in the public interest a session should be held in private. Where personal questions are involved, the sessions must be held in private. As a rule, the meetings are public except where the law provides otherwise.

The Communal Law provides that "the council shall control all matters of communal interest, it shall pass resolutions on all other matters which may be referred to it by the superior authority."

The council has wide powers to make regulations with regard to the internal affairs of the commune—police, institutions, services, works and property—such regulations not being subject to the approval of a higher authority except by special provision. Police regulations, however, must not be contrary to the laws or regulations of the central or provincial authorities and they must be based on the principle of maintenance of order, public peace and security, otherwise they would be unconstitutional and the courts would refuse to enforce the penalties.

The *College of Burgomaster and Aldermen* (Collège des Bourgmestre et Echevins) is the executive committee of the communal council and comprises the burgomaster, who presides *ex officio* and is entitled to vote, the aldermen, and the communal secretary. The aldermen are elected by the communal council from among their own members for six years. At present there are two in communes of 10,000 inhabitants or less and from three to seven in the larger communes. They may receive a salary, which is fixed by the communal council.

The members of the college are collectively responsible, but in practice different branches of the work are sometimes allotted to them individually.

Any acts of the communal council or the college of aldermen which are *ultra vires*, or which are injurious to the general interest, may be suspended by the Governor and annulled by the King.

• The *Communal Secretary* (Secrétaire) communal is appointed by, and may be suspended or dismissed by, the communal council with the approval of the permanent deputation. In case of dismissal, appeal may be made to the King.

He is in no sense an agent of the central or provincial authority, but is purely a communal official and is entirely under the direction of the communal authority. In the larger communes he has important and varied duties to fulfil, while in small communes, where he acts as guide and support of the burgomaster, often a man little versed in administrative affairs, his position is one of some responsibility.

The *Communal Receiver* (Receveur communal) is appointed by the communal council, by whom he may be suspended or dismissed. His salary is fixed by the council. He alone has the handling of the communal funds. The same person may not occupy the posts of secretary and receiver, except, with the sanction of the King, in communes of less than 1,000 population.

A recent law has determined the minimum salary of the communal secretaries and receivers all over the country.

In every commune there are certain communal institutions which enjoy a civil personality and are autonomous, except that they are under the supervision of the local and superior authorities and that in some cases the burgomaster is *ex officio* chairman of their boards.

These include "bureaux de bienfaisance," which give assistance to the poor; civil infirmaries, which provide a refuge for indigent aged persons, as well as hospital care for the indigent sick; public pawnshops and church councils.

The accounts and estimates of these bodies require

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approval by the local authority and, when they have insufficient income to carry out their duties, the commune supplies the want by means of a grant.

### THE PROVINCE

Belgium is divided into nine provinces. These provinces were at one time independent states, with somewhat different boundaries. This fact has no influence on their constitution, which is exactly the same for the nine provinces.

Their area varies from 963 to 1,767 square miles, and their population (1921) from 223,075 to 1,541,960.

At the head of the provincial government is the *Governor* (Gouverneur), who is appointed by the King on the advice of the Minister of the Interior. He receives a salary, paid by the State, but not sufficient to defray all the expenses which he must necessarily incur. The post is usually given to political supporters of the Government.

As agent of the central administration, the governor supervises the provincial administrative officials and is responsible for the good organisation of the province. His functions are connected with all the public services except the army and the administration of justice. For the preservation of public order and security he has at his disposal the gendarmerie.

The governor cannot himself issue provincial regulations or give orders to the inhabitants of the province, but he may call upon the citizens to carry out the law and regulations issued by the King and the provincial council.

The *Provincial Council* (Conseil provincial) has a membership of forty-four to ninety-three, according to the population. The members are elected for four years. They are unpaid, but receive an allowance out of provincial funds for travelling and maintenance expenses.

To be eligible to become a member of the provincial

council, persons must be of native birth, at least twenty-five years of age, and domiciled in the province. Members of the Chamber, senators, and many classes of officials are ineligible. Women who have acquired Belgian nationality by marriage are not eligible and family relationship entails exclusion in certain cases.

Each session of the provincial council is opened and closed by the governor, but the council appoints its own president and vice-president. It holds an ordinary session once a year. The meetings are, as a rule, public.

The functions of the provincial council in the matter of local administration include the construction, maintenance and control of parish and provincial roads, the maintenance and control of waterways, drainage of marshes, measures of preservation against epidemics and epizootics, and the establishment and maintenance of certain charitable and educational institutions, such as public institutes, deaf and dumb asylums and technical schools. It may make regulations, other than local police orders, for the maintenance of order, safety and public health.

It is also the duty of the provincial council to elect the provincial senators, to present candidates for appointment to the magistracy, to advise on changes in the local government areas, and to allocate to the various communes their respective shares of the direct taxes for which the province is liable.

The provincial council elects every four years from among its own members a committee known as the *Permanent Deputation* (*Députation permanente*), which is composed of six members, together with the governor as president. The members receive a salary (4,000 francs in 1924), half of which is paid down, the other half being reserved to form a fund which is shared out every three months among the members, according to the number of meetings they have attended. In addition, members living at a distance may receive a travelling allowance. These payments are made by the State.

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The permanent deputation is, at the same time, a direct agent of the central Government, the executive organ of the provincial authority, and a tribunal of administrative law. In practice its sessions are not open to the public except when acting in the latter capacity.

The deputation deals with all matters which concern the current administration of the province and is, in particular, responsible for preparing the estimates and reporting on the financial situation.

Normally, provincial business passes through three phases : (a) inquiry and preparation by the governor and his staff ; (b) consideration and decision by the council or the permanent deputation, and (c) execution by the governor. In certain cases, and particularly where the governor is lax, the deputation may assume his functions in this respect.

The deputation has certain powers of supervision and control over the communal councils and can suggest amendments in their decisions in certain cases.

As an administrative tribunal its powers have been from time to time restricted. Its decisions are subject to appeal, either to the court of appeal or to the King.

The King can annul any act of the provincial council or the permanent deputation which is *ultra vires* or contrary to the general interests. All provincial budgets, taxes and loans require his approval, and the decisions of the provincial council on certain other subjects may be reserved for his consideration by the Governor.

The *Provincial Registrar* (Greffier) is appointed by the King for six years, on the recommendation of the permanent deputation, and is re-eligible at the end of that period. He is a Government official attached to the provincial authority to assist them in carrying out their functions. He is present at the meetings of the provincial council and of the permanent deputation, of which he takes the minutes. He supervises the provincial offices under the direction of the governor, has charge of the records, and is keeper of the provincial seal.

## THE ARRONDISSEMENTS AND THE CANTON

The provinces are divided into administrative *Arrondissements*, for each of which an agent of the central Government is appointed under the title of *Commissaire d'Arrondissement*, corresponding to the French sub-prefect. Neither the division nor the office is of great importance at the present time. The principal functions of the commissaire d'arrondissement consist in the control of communes of less than 5,000 inhabitants, except where such a commune happens to be the chief town of an arrondissement.

The arrondissements are sub-divided into *Cantons*, which are judicial districts and also electoral areas for the provincial elections.

## FINANCE

The communes are partly financed by a fund established by the State, which, since July, 1922, has consisted of an annual grant from the Treasury of 103,150,000 francs, together with one-fourth of the total amount of the professional tax on salaries, wages and pensions deducted at the source.

The distribution of this fund, and indeed the whole of the relations between local and central taxation, are subject to constant change.

In January, 1924, the fund was distributed as follows :

Four-tenths in proportion to the revenue from built-on land.

One-tenth in proportion to the revenue from unbuilt-on land.

Four-tenths in proportion to population.

One-tenth in proportion to the expenditure on vocational training and public assistance.

The communes also receive definite proportions of some of the State direct taxes and can add centimes to these up to a limited amount. A proportion of the motor tax under the Act of 1923 is granted to the communes,



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partly on the basis of the place of residence of the taxpayer and partly in proportion to the amount spent in the commune on construction, improvement and maintenance of roads during the preceding year. No "additional centimes" may be added to this tax.

Communal taxes may, with the approval of the King, be levied upon any subjects which are not the basis of State taxation and are not expressly excluded by law. Examples of such taxes are those on dogs, places for the retail sale of liquor, motive power, *personnel* of industrial and commercial establishments, balconies.

The question of raising a loan must be discussed at a public meeting of the communal council, and an inquiry must be held in order to hear any objections from inhabitants. A decision of the communal council to raise a loan must be reported upon by the permanent deputation and approved by the King, except where the amount does not exceed 5,000 francs or one-tenth of the ordinary revenue up to a limit of 50,000 francs, when the approval of the permanent deputation is sufficient.

Control over the communal expenditure is exercised by the commissaire d'arrondissement, the permanent deputation, the governor or the King, according to the population of the commune, the amount of the expenditure and the nature of the proceeding submitted for approval. The annual accounts must be submitted to the permanent deputation, which finally passes them.

The provinces receive, as exchequer contributions from assigned revenues, certain proportions of the produce of the land tax, of the tax on income from investments, of the tax on salaries and pensions, and of the motor tax, and may add centimes in some cases to a very limited extent.

The provincial council can, with the approval of the King, levy taxes on certain defined subjects, including hunting, firearms, dogs, horses, carriages, bicycles, and the sale of alcohol or of tobacco.

All provincial budgets, taxes and loans require the

King's approval. Their accounts are audited by the *Cour des Comptes*, which is a body appointed for six years by ballot of the Chamber of Representatives.

#### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—The care of the public health is one of the normal functions of the communal authorities as a matter of local "police."

**EDUCATION.**—Elementary education is administered by the communal authorities, which have wide autonomy in the matter. The cost falls upon the communes, with the assistance of grants from the province and the State. There is a Government grant to cover the amount of the salaries of the teaching staff. Of the cost of the construction and maintenance of schools, the Government usually contributes one-third and the province one-third, the communes being responsible for the remainder.

Secondary schools are provided by the State and the provinces, and may also be established by the communes with the approval of the permanent deputation. Where Government grants are given to provinces or communes for secondary education, a considerable amount of central control is exercised over the management of the schools.

**HIGHWAYS.**—Ways of communication are divided, as regards administration, into two classes, *main* and *local*; the latter class is sub-divided into *urban* and *parish*.

Main roads are under the jurisdiction of the State or the province; local under that of the commune.

Urban roads comprise the streets in towns and roads serving groups of houses in rural communes, including isolated habitations considered as belonging to such groups. State grants may be made to impecunious communes for the purpose of road making.

All roads, other than the main or urban roads, are known as parish roads, and these are, as a rule, maintained by the commune. The provincial authorities may, with the approval of the King, order works necessary in

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the case of parish roads and may appoint surveyors to report on their control and administration.

PUBLIC ASSISTANCE.—*Bureaux de Bienfaisance* are appointed by the communal councils for each commune, and in some communes the council also appoints a *Commission des Hospices*. Half of the income of the bureaux comes from communal subsidies, and the bulk of the remainder from land or other property owned by the bureaux. There is, however, a common fund established in each province, to which all its communes must contribute sums varying according to the population and income. There are a few State institutions, but most of the hospitals, asylums and deaf, dumb and blind institutions are establishments of the religious orders, who are paid by the bureaux de bienfaisance or commissions des hospices at fixed rates.

POLICE.—In each commune the burgomaster is the chief of the local police concerned with the detection of crime, as well as of the administrative police concerned with the prevention of disorder. A *Police Commissary* (Commissaire de police) is sometimes appointed by the King from among candidates nominated by the communal council, but does not exist in every commune.

### CONCLUSION

While the Belgian system of local government is largely based on the French, the central control over the local authorities is decidedly less complete in Belgium than in France. The provincial governor is not so ubiquitous as the prefect, the central Government cannot dissolve either provincial or communal councils and, generally, there is greater power in elected councils and less in appointed officials. The wide autonomy of the communal councils in the matter of elementary education is particularly noticeable, and the police are under local control.

On the other hand, the burgomaster is not elected like

the *maire*, but appointed by the King, and the control in the matter of budgets and accounts by the permanent deputation over the communal council, and by the King over both provincial and communal authorities, is very far-reaching.

The question of local taxation is a burning one and the Belgian communes, which display a strong attachment to the principle of local autonomy, have been greatly dissatisfied at the manner in which, since the War, various financial resources have been closed to them. Several measures have been introduced with the view of putting the matter on a footing which would be fair to both the State and the local authorities, and it cannot be presumed that the precise system at present in force is final.

The principle of compulsory voting in local government elections is understood to work well.

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## CHAPTER IV

### HOLLAND

FROM their inception, municipalities and provinces (forming, together with the "waterschappen," the administrative units of the Netherlands) have been possessed of extensive autonomous powers. With regard to the provinces, the system under the old republic was carried so far as to result in virtual sovereignty, whilst a central authority was almost entirely lacking. Under the influence of the French Revolution, the structure of the old republic collapsed in 1795, when a centralised state was organised and the autonomous powers of the component parts were considerably curtailed. Under the various laws of the constitution which were in force in the years following 1798, this state of things remained unchanged, and it was only natural that this should also be the case when, in 1810, the Netherlands came to form part of the French Empire. Independence being regained a few years later, a new law of the constitution was enacted in 1814, under which the Sovereign was made the apex of central authority.

As of old, provinces and municipalities were given a considerable measure of autonomy, with the restriction, however, that the central authority was empowered to quash their ordinances in so far as they were in conflict with the general law of the land or with its general interest. This system was maintained when, in 1815, the Sovereign assumed the royal title, and is in force up to the present day. Its general principles are laid down in the law of the constitution ; they were developed in the Provincial Administration Act of 1850, and in the Municipal Administration Act of 1851, which Acts have since then been repeatedly amended.

## ELECTORATE

The local government electorate is the same as that for the Second Chamber, namely, citizens of both sexes who are Dutch subjects not under twenty-five years of age.

## THE COMMUNE

There are 1,100 *Communes* (*Gemeente*), which are all on the same footing, whether urban or rural. Twenty-one of these have a population under 500. Seven have an area of less than 250 acres, while that of the largest exceeds 75,000 acres.

Every commune has a *Communal Council* (*Raad*), elected by proportional representation for four years, in number not less than seven (in communes up to 3,000 population) or more than forty-five (in communes over 200,000 population).

Every person over twenty-five years of age, who does not come under the description of " *persona miserabilis* " and who has not been deprived of his rights as a citizen by any process of law, is eligible as a member of the communal council.

The *Burgomaster* (*Burgemeester*), appointed by the Crown for six years and usually re-appointed, is chairman of the council and has certain independent administrative powers, including those of chief of the police.

Although representative of the Government, the burgomaster does not receive instructions from the central departments, but holds a very independent position. He receives a salary varying from 500 to 25,000 florins and is entitled to a pension on retirement.

The *College of Burgomaster and Aldermen* (*Collegium van Burgemeester en Wethouders*) is the executive of the council. The aldermen are appointed by the council from among their own number for four years. In communes with less than 20,000 inhabitants two aldermen are appointed, from 20,000 to 100,000 population,

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three or four, and, if over 100,000 inhabitants, four, five, or six.

The communal council must meet at least six times a year and also whenever summoned by the burgomaster, the "college," or a certain proportion of the members. It usually meets in the larger communes once a fortnight and in the lesser ones every three or four weeks, but in the small villages often no more than the six statutory meetings are held during the year. All meetings are public, unless otherwise specially resolved.

The college of burgomaster and aldermen is practically an executive committee for all purposes. It is collectively responsible to the council, but in the larger communes it is usual for the conduct of certain branches of the administration to be assigned to different aldermen.

Apart from this, there are no standing committees, but it is very usual for the council to appoint committees (consisting solely of members of the council) to assist the "college" with advice on particular subjects.

The communes have a general power to act for the good administration of the community. Certain matters are expressly assigned by law to the burgomaster or to the college of burgomaster and aldermen, and it is the latter, and not the council, which is generally responsible for the local execution of national laws. Decisions as to policy are almost entirely within the sphere of the council and must be carried out by the executive, subject only to such control by the higher authorities as will be mentioned later.

Subjects, provision for which all communes are obliged to show on their estimates, and which may therefore be described as obligatory functions of the communes, include—

- (a) the preparation of the civil register and voters' lists ;
- (b) assessment ;
- (c) care of communal streets and roads, bridges, etc. ;
- (d) provision and maintenance of burial places ;

- (e) fire protection ;
- (f) sanitary police ;
- (g) subscriptions to the State and Provincial Gazettes.

### THE PROVINCE

There are eleven *Provinces* (Provincie) whose areas vary from 525 to 1,939 square miles, and populations (1924) from 221,072 to 1,760,749.

At the head of each province is a *Royal Commissioner* (Commissaris), who presides over the provincial council, and generally exercises authority in the province.

The *Provincial Council* (Provinciale Staten) is elected for four years, the number of members varying from thirty-five to eighty-two. It meets twice a year, as a rule in public.

The provincial council appoints out of its own number a *Provincial Executive* (Gedeputeerde Staten) consisting of the commissioner, who presides, and four or six members, which is practically an executive committee for carrying on the work of the province.

The principal functions of the provincial authorities are the provision, improvement and maintenance of provincial roads and other works, and the supervision of the bodies (waterschappen) responsible for the dykes and other works for the prevention of floods, etc.

They have, further, general powers of making regulations on matters of provincial interest, subject to the approval of the Crown.

### FINANCE

**COMMUNAL.**—The annual communal budget must be prepared by the burgomaster and aldermen and presented by them to the communal council. It requires the approval of the provincial executive, whose decision, whether for or against, can be quashed by the Crown.

Any resolution by a communal council relative to a



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local tax must be submitted within eight days to the provincial executive, who must make a report upon it within six weeks to the Crown for approval.

Communes may, for local purposes, levy percentage additions, within certain limits, to the land tax, the income tax, the property tax, the personal tax, and any other State taxes which the law may declare available. They may also levy a direct local income tax, taxes on businesses employing not less than ten workers, dogs, fire insurances, entertainments, visitors and advertisements, and may obtain further revenues from market dues, etc.

**LOCAL INCOME TAX.**—The local income tax is the most important of the communal taxes, and may take one of several forms ; it may be that the assessment to the State income tax is increased, for the benefit of the communes, for all taxpayers, with certain exceptions ; it may consist of a similar percentage levy combined with a non-progressive local income tax ; it may also have the character of a completely independent local income tax (which may be levied on the progressive principle, within certain defined limits).

In 1924 there were only five communes which levied no kind of income tax for local purposes. In the same year sixty communes added percentages to the State income tax, eighty-five levied a local non-progressive income tax, 309 levied a similar tax as well as adding percentages to the State tax, and 625 levied a local progressive income tax.

The assessment of each taxpayer to the local income tax (if any) is fixed by State officials at the same time as that to the State income tax, and the tax is collected by State officials and paid over to the communes on a certificate by the Minister of Finance. Power can, however, be given by royal decree to a commune, for a period of not more than five years, to deal with the local income tax by their own officials. The present method of assessment of State and local income tax is not considered altogether satisfactory, and changes are contemplated.

Under a Law of 24th May, 1897, Government subsidies are paid to the communes in the shape of (1) half the salaries of the burgomaster and secretary up to a maximum of 600 florins; and (2) a grant per head of the population.

In 1920, out of a total of communal receipts amounting to about two thousand million guilders, over 227 millions were from taxes, over 218 millions from grants, and over 122 millions from industrial undertakings.

PROVINCIAL.—The provincial council may levy—

- (a) a percentage of the total of the State land tax, not exceeding 50 per cent. ;
- (b) a percentage of the total of the State personal tax, not exceeding the percentage levied on unbuilt-on land ;
- (c) a percentage of the total of the State property and income taxes, only to be levied when not less than 20 per cent. has been added to the personal tax. Moreover, equal additions, if any, must be made to the property and income taxes ; they must not be more than half the addition to the personal tax, and must not exceed 20 per cent. ;
- (d) fees of the clerk's office ;
- (e) tolls of all kinds and other charges for the use or enjoyment of provincial works or services.

All resolutions by the provincial council relating to the levying, alteration or repeal of local taxes, fees and charges for special services require the approval of the Crown.

#### CONTROL OVER LOCAL AUTHORITIES

The provincial councils and executives, in addition to the requirement of the approval of the Crown in all matters relating to taxation, are under permanent central control in that their president is a State official.

Control over the communal authorities is exercised by (1) the Crown, (2) the *gedeputeerde staten* (executive of the provincial council).

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The Crown can set aside any resolutions of the communal council or "college" on the ground of illegality or as being contrary to the general interests.

The burgomaster has power to recommend to the Crown the annulment of any decisions of the council and to suspend them temporarily for thirty days. If no action is taken by the Crown within that period, the decisions become operative.

The provincial executive frequently gives warning and advice, and consults with the communal authorities, so as to make the intervention of the Crown unnecessary.

The sanction of the provincial executive is required for a number of acts of the communal authorities, *e.g.*, loans, dealings with property, actions at law. It is, however, laid down that the approval of the provincial executive should only be withheld in cases in which it is clear that there is greater likelihood of disadvantage than of advantage resulting from the proposal in question. There is an appeal to the Crown against a refusal of sanction. The Crown can also quash a sanction given by the provincial executive.

Town-planning schemes, which are nominally compulsory for communes with over 10,000 population and for smaller communes whose population has increased more than 20 per cent. in the last five years, must be submitted to the provincial authority for approval.

The annual budget of the communes also requires the approval of the provincial executive, and upon this, too, there is an appeal to the Crown. If a commune omits to include in its estimates sufficient provision for any of its obligatory functions, the provincial executive can insert additional items.

#### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—The college of burgomaster and aldermen is primarily responsible for the day to day administration of public health services.

In every commune with more than 18,000 inhabitants, and in others in special circumstances, or for groups of communes in the same province, a *Health Committee* must be set up, whose chairman, members, and secretary will be appointed by the Royal Commissioner. Where such a committee has been set up, every important question relating to public health must be referred to it before the communal authorities come to a decision in the matter.

EDUCATION.—The Ministry of Education, Fine Arts and Science, which was only established as a separate department in 1918, is not in every sense a supreme educational authority, but is the department responsible for such superintendence as is exercised by the Government in educational matters other than agricultural.

Elementary education is an obligatory duty of the communes. The recognition of private elementary schools on the same footing as municipal schools is an outstanding feature of the Dutch system, and assistance can also be given out of communal and State funds to private schools of the higher types.

The communes are obliged to raise an education rate for the expenses, including those of school buildings and maintenance, but the salaries of obligatory teachers are paid by the State.

The supreme inspection of all schools is carried out by Government inspectors, who also co-operate with the communes in the appointment and dismissal of teachers. The communal councils can also appoint permanent committees for local management under the direction of the college of *burgomaster* and aldermen.

HIGHWAYS.—The great arterial roads, and some other routes along the rivers and canals, are directly under the care of the State. Other highways are maintained by the provinces, the communes, the *waterschappen*, special committees, and even by private persons. Only in two provinces, North Brabant and Groningen, are the provincial roads of great importance.

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The *gedeputeerde staten* have a right of supervision over the highways of inter-local importance within the province, the maintenance and use of these highways being regulated by provincial byelaws.

**PUBLIC ASSISTANCE.**—The relief of distress is primarily in the hands of ecclesiastical or private corporations or of *Charity Boards* (*Armbesturen*) voluntarily established by the citizens. If in a commune there is no citizens' charity board, the college of burgomaster and aldermen have to care for the poor who are not aided by ecclesiastical or private corporations, but there is no special poor rate and no contribution is made from the national exchequer.

*Charity Councils* (*Armenraad*) are set up by the communal councils, being composed of representatives of voluntary organisations, which must be registered before they may collect from the public. These bodies are purely advisory and cannot themselves take action to relieve distress. The secretary to a charity council is appointed by the Minister of the Interior.

**POLICE.**—In each commune the burgomaster is chief of the police, and is solely responsible for their appointment and organisation, except that the pay is fixed by the communal council, subject to the approval of the Crown, and that such approval is also required for the appointment of the police commissioner, who is subordinate to the burgomaster. In the rural districts, however, much of the work is carried out by the State police.

### CONCLUSION

The general effect of the Dutch system appears to be that the Crown has, in principle, a strong hold over the activities of the local authorities, both directly, in that the consent of the Crown is required for a number of their acts, and indirectly, in that both the royal commissioner, who presides over the provincial councils, and the burgomaster, who presides over the communal councils, are

appointed by the Sovereign. The burgomaster, however, does not receive instructions from the central departments of Government, and therefore acts to a large extent on his own responsibility. He is apt to look upon himself and to be regarded as "the man of the commune," rather than as an agent of the central Government. Moreover, in practice, the consent of the Crown is required only with regard to the imposition of local taxation.

There does not appear to be any serious dissatisfaction with the existing system of local government. A new Local Government Bill is before Parliament, but does not indicate any fundamental changes. The most important alterations proposed are a diminution in the powers of control of the provincial executive (*gedeputeerde staten*) over towns with a population of at least 40,000, the giving of power to the municipal authorities in such towns to delegate certain matters to special members of the official staff, the enabling of municipal councils generally to transfer certain of their powers to the college of burgomaster and aldermen and the introduction of compulsory co-operation between communes in certain cases.

It is also proposed to amend the procedure for the amalgamation of communes or the alteration of their boundaries by abolishing the "Committee of Inhabitants" which, under the existing law, must be set up *ad hoc* to consider a Bill for any such purpose. This body consists of from seven to twenty-five members, elected by the communal electors and presided over by the burgomaster, and it is now looked upon as merely an unnecessary duplication of the communal council. Further, the right of the provincial executive to draft the Bill is to be taken from them, but it will remain, as now, the function of the provincial executive to initiate the proceedings.

New regulations are proposed as to the management of cities' finance, and the changes which are foreshadowed in the law relating to local taxation are causing considerable apprehension among the local authorities,

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who fear that such changes may seriously limit their resources.

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## CHAPTER V

### ITALY

THE modern system of local administration in Italy may be said to have begun with the legislation of the state of Sardinia, which largely adopted the principles in vogue in France. After the proclamation of the kingdom of Italy in 1861, the system was extended to the whole peninsula, and although there have been a number of more recent statutes dealing with different branches of the subject, the general principles of administration have not been altered.

#### ELECTORATE

Male persons over twenty-one years of age who reside in the commune or who pay in the commune direct taxes or local rates or a certain rental, unless they are in a condition of incapacity or have been convicted or otherwise proved unworthy, are entitled to vote in respect of the commune in which they reside, provided that their names are inscribed on the political electoral lists and the civil register, and that they can read and write.

In May, 1925, a Bill was passed by the Chamber of Deputies giving the vote for administrative elections to women who are twenty-five years of age and have passed an examination in the minimum elementary course of instruction, *i.e.*, the first three years. This second qualification is not required in the case of (a) mothers or widows of soldiers fallen in the War ; (b) women who, as widows or from special circumstances, are in the position of heads of households and legal guardians of their children ; (c) women who have been decorated for war service or civic merit ; (d) women who pay annually a minimum of 100 lire in taxes and who can read and write. It is calcu-



lated that, out of twelve million adult Italian women, a little over one million will benefit under this law.

### THE COMMUNE

As in France, so in Italy, the whole territory of the kingdom is divided into *Communes* (Comuni), which number at present 9,148. Twenty-eight communes have each an area of less than 1 square kilometre, while two have over 700 square kilometres. The population of nineteen communes was (in 1921) under 100, and of eighteen over 100,000.

In Italy, subdivisions of the communes are recognised, being known as *Frazions* (Frazioni). Any such subdivision which has a population exceeding 500 may on application have separate property and be separately rated, and such fractions may also serve as constituencies for the members of the communal council.

In each commune is a *Communal Council* (Consiglio Comunale), consisting of a number of elected members, which varies from fifteen to eighty, according to the population, holding office for four years. They receive no salary and their expenses are paid only if incurred for special services.

The communal council elects the *Mayor* (Sindaco), who, in addition to being the head of the communal administration, is an official of the Government, and in that capacity is responsible for the civil register and other matters. He is obliged to take an oath of fidelity to the King and the Constitution. His period of office is four years and he is re-eligible so long as he remains a member of the council. Where a commune is divided into fractions, the mayor can delegate his powers as Government representative to a councillor for the fraction.

The communal council also elects a *Municipal Committee* (Giunta Municipale), which holds office for four years. The number of "effective" members varies from two to ten, and of "supplementary" or "alternative"

members from two to five, according to the population. The mayor is chairman. This body represents the communal council between its sessions, and is responsible for the day-to-day administration. Its sittings are never public. It must report annually to the council.

The obligatory functions of the communes include all matters relating to sanitary administration, buildings, medical assistance, and care for the poor, water supply, construction and maintenance of communal streets.

The communes can exercise other functions at their discretion, subject to the rule that any expenditure involved is sanctioned only in so far as it concerns services of public utility.

Any proposal to municipalise a public service must be submitted to a referendum of the electors.

The title of *City* (*Città*) is purely honorary and has no legal significance. It is conferred only on such communes as are distinguished by their history or their monuments, having a population centred in the "capital" of the commune of not less than 10,000, and having adequately provided all public services, especially those relating to public assistance and education.

### THE PROVINCE

The result of the treaties after the Great War was to increase the number of Italian provinces from sixty-nine to seventy-six. The areas of these vary from 133 square miles (Leghorn) to 5,179 square miles (Cagliari), and the population, in 1921, from 18,623 (Zara) to 1,906,931 (Milan).

The *Prefect* (*Prefetto*) is appointed by the Crown after deliberation by the Council of Ministers and on the advice of the Minister of the Interior. He must reside in the capital of the province and his jurisdiction is restricted to the provincial area. He represents the Central Government in the province and in that capacity supervises all the local public offices and can, in any case of

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emergency, take such measures as he considers necessary ; he superintends the police and is responsible for public order, and for this purpose can make use of the public forces and can require military assistance. He is responsible directly to the Minister of the Interior, but also carries out the instructions of the other ministries with regard to matters within their jurisdiction.

With regard to the self-governing bodies, the prefect has a power of control, the object of which is normally to establish the legality of the resolutions of the local bodies. Besides this power of control, the prefect possesses the power of initiative and of substitution, since he has the right to require the local authorities to vote on defined subjects and also to take upon himself the general conduct of local affairs by means of commissioners, whose proceedings are subject to his ratification, when the administrative bodies themselves are not in a position to function.

Immediately subordinate to the prefect are the *Sub-prefects* (Sotto-prefetti), who reside in the capital of the *Sub-district* (Circondario) and have jurisdiction therein. The sub-prefect must be a permanent official of the administrative offices of the Ministry of the Interior and is bound to exercise his functions according to the instruction of the Minister. For their execution he has at his disposal an administrative staff of his own and also that of the police.

The sub-prefect carries out, under the direction of the prefect, the duties which are laid upon him by law, executes the orders of the prefect, and in cases of urgency makes such provisions as are necessary and reports the matter at once to the prefect.

He exercises over the local authorities of the sub-district the power of control which the prefect possesses with regard to the whole province and can suspend the execution of their resolutions, subject to the prefect's power of annulling them.

In each province a *Provincial Council* is elected to hold office for four years. The number of members varies from

twenty-five to forty-five, according to population. The council elects its own president. It meets only once a year in ordinary session.

The council also elects from its own number a *Provincial Deputation* (Deputazione Provinciale), consisting of six members, two supplementary members being also elected to take the place of any of the regular members if unable to attend. Brothers, other close relations, and State officials are ineligible.

The provincial deputation is the executive of the provincial council, prepares the estimates, appoints officials, with the exception of the heads of departments, who are appointed by the council itself, enters into contracts, and acts in the place of the council in cases of emergency.

Various other standing committees are appointed by the council to hold office for three years.

The chief obligatory functions of the provincial authorities are the care of lunatics and the destitute, maintenance of the ordinary provincial roads, provision and maintenance of technical and scientific institutes, the provision of laboratories, and some other public health services. They can, at their discretion, undertake other matters, provided that the expenditure thereon is incurred for purposes of public utility within the area of the province. The provincial council can issue regulations with regard to hunting, the veterinary police, provincial roads, etc.

In addition to the provincial bodies already described, there is in each province a *Provincial Administrative Board* (Giunta Provinciale Amministrativa), which is composed of the prefect, who presides, the intendente di finanza, two prefectural councillors (permanent officials) who are appointed annually by the central Government, and five effective members named by the provincial council for four years. "Alternative" or "supplementary" members are also appointed. Members of Parliament or of the provincial deputation, mayors and officials are ineligible.

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This body exercises certain control over the actions of local authorities, and is also an administrative court of first instance.

### FINANCE

The sources from which the local authorities obtain their revenue were considerably altered by Decrees of the 18th November and 30th December, 1923.

The communes and provinces may make additions up to a limited amount to the land and buildings taxes, on the same principle as the centimes additionnels in France, and the communes may similarly make additions to the "complementary tax" established by another Decree of December, 1923, or, instead of the latter, may, by permission of the Minister of Finance, themselves levy a comprehensive graduated tax on the complete turnover of the taxpayer.

Apart from these, communes may levy taxes on the turnover of businesses showing a return of not less than 2,000 lire, of which the whole or a part has been realised in the commune. In the case of businesses which have branches or agencies in different communes, the allocation of this tax as between the communes is fixed by the Agenzia delle imposte. The tax must not exceed 2 per cent. in the case of certain businesses and 1·60 per cent. in the case of others.

The provinces may add to this communal tax up to 1 per cent. and 0·80 per cent. respectively.

In the case of businesses, professions, etc., which show a return of less than 2,000 lire, the communes can levy a "patent" tax, which is in seven grades, ranging from 10 to 40 lire.

Both provinces and communes can raise an amount equal to one-third of the cost of maintenance of the roads for which they are responsible by a special charge on persons who make an abnormal use of such roads, the basis of charge being either the type of vehicle used or the intensity of user.

Communes (and provinces also, in respect of extra-urban property) may impose a betterment tax in respect of increased value caused by public works; or communes may, in the alternative, charge lands which benefit by such works up to one-third of their cost.

Other taxes which may be levied by communes are on the retail sale of alcoholic liquors, domestic servants, public and private carriages, cattle, draught animals, visitors, pianofortes and billiard tables.

Further sources of revenue to the communes are the octroi or local food duty (*dazio di consumo*), which is a very important item, the income arising from communal property of different kinds, and fees charged for the occupation of public land, for the concession of a monopoly of public seats on the occasion of fairs and markets, for the use of the public weights and measures, slaughter-houses, etc.

Any disputes with regard to communal or provincial taxation are heard in the first instance by communal commissions set up for the purpose in each commune, and on appeal by the provincial administrative board. The communal commissions are appointed by the communal councils, but may consist partly of non-members to the extent of three-quarters of their number in communes with a population over 100,000, and of one-half in the lesser communes.

For the provision of drinking water and for other sanitary works, for the construction of streets, cheap houses and educational buildings, loans may be granted by the deposit and loan office to the communes for a period not exceeding fifty years.

The financial procedure of both communes and provinces is subject to the supervision of the prefect and the provincial administrative board, but in the case of the provinces the actual approval of the prefect is only required in the case of decisions of the council which would affect the provincial accounts for a longer period than five years, and for expenditure in respect of the

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establishment of public institutions at the expense of the province.

### CONTROL OVER LOCAL AUTHORITIES

Control over communal proceedings is exercised mainly by the system of the "visto" or confirmation by the prefect, which must be obtained for all resolutions, except such as relate merely to the execution of measures previously confirmed in principle. This confirmation, so far as it applies to resolutions generally, is concerned solely with their conformity with the law, such resolutions as appear to be *ultra vires* in form or in substance being annulled. For certain purposes, however, the merits of the resolution in question are taken into consideration. This is the case with regard to contracts.

Moreover, certain communal resolutions require the approval of the provincial administrative board, namely, those which relate to the dealings with the property of the commune or to the finance of the communal council, the making of regulations, changes in the classification of roads, or the laying-out of new streets.

The prefect may, at his discretion, authorise a functionary known as *Prefectoral Commissioner* (Commissario Prefettizio) to undertake any functions of the communal council in regard to which the latter have made default. The central Government can at any time annul any acts of the communal council which are not in accordance with the law or regulations, and may, in an extreme case, dissolve the council and substitute a *Royal Commissioner* (Regio Commissario) for both mayor and council.

The resolutions of the provincial councils are subject to the control of the prefect as regards their conformity with the law and to that of the provincial administrative board on the question of expediency, on very much the same principles as in the case of the communes.

Similarly, too, a provincial council may be dissolved,

and in such event, its powers would be transferred to an *extraordinary commission* (commissione straordinaria).

#### ADMINISTRATIVE JURISDICTION

Complaints against the actions of local authorities and other controversies relating to local administration may be dealt with either by the ordinary courts or by administrative tribunals. In the former case, however, the court must confine itself to adjudicating on the effects of the administrative provisions in relation to the subject in dispute, without being able, even where it declares the provision *ultra vires*, to modify or revoke it, and much less to substitute a fresh provision for it. An administrative act can be modified or revoked only by the competent administrative authority.

Independently of the action before the ordinary courts, a *Hierarchical Appeal* (Ricorso Gerarchico) can be brought before the superior authority against any provisions of an inferior authority as to which the latter has not power of final decision, and the superior authority can annul or modify the act complained of as it thinks fit.

There is a further *Extraordinary Appeal to the King* (Ricorso straordinario al Re) against the decision of the superior authority, and this class of appeal can be made direct against "final" decisions of a local authority, but under this appeal only the legality of the administrative provisions can be called in question.

Concurrently with and alternatively to an extraordinary appeal to the King, there may be a direct appeal to the judicial sections (IV. and V.) of the Council of State. These sections adjudicate also on appeal from the provincial administrative committee, acting as an administrative court of first instance.

#### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—The care of the public health is, under the Minister of the Interior, an obligation resting



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on the prefects and the mayors. The communes are required to co-operate actively in the carrying out of this duty.

Attached to each prefecture is a *Provincial Medical Officer* and a *Provincial Council of Health*. The latter, presided over by the prefect, has functions analogous to those of the Superior Council of Health, which is a consultative body attached to the Ministry of the Interior.

The provincial medical officer, who is a Government official responsible to the prefect, has as his principal duty to superintend the sanitary services and the hygienic conditions of the communes, the sanitary institutes of the whole province, and the execution of sanitary laws and regulations. In each commune is to be found a sanitary official appointed by the prefect on the proposal of the provincial sanitary council and paid by the commune. The sanitary official watches over the hygienic and sanitary conditions of the district, keeping the provincial medical officer constantly informed as to them, and notifying to him immediately anything which, in the interests of public health, demands special or extraordinary measures.

The duty of the commune in the matter of public health, besides general sanitary administration, includes the granting of loans for medical and surgical assistance and the free distribution of medicines to the poor. For this purpose, the communes are bound to pay an adequate number of physicians, surgeons and midwives, who give gratuitous services to the poor, and must also supply them gratuitously with medicines by means of the pharmacies existing in the place, or, if none such exist, instituting provision of the requisite dispensaries.

The sub-prefect can act in the place of communes in cases of default or negligence.

The provinces are obliged to undertake certain duties which affect a wider area than that of a single commune, e.g., the establishment of laboratories for the benefit of the communes (except in the case of communes of over

150,000 inhabitants, which may establish their own), measures to deal with tuberculosis and rabies, the provision of vaccine, quinine, etc., and they are given power to undertake other similar functions.

• **EDUCATION.**—The education which is given by the State and by the other public authorities does not exclude the co-existence of private education, provided that the latter is adequately guaranteed, principally by State examinations.

Elementary and popular education is provided by regional administration financed by contributions from the State and the communes. It is governed, subject to the Ministry of Public Instruction, by the *Provveditore agli Studi*, helped by other bodies. As a rule the communal authorities are not responsible for educational administration, but in the case of the more important centres (about 300) this function has been conferred upon them, subject to certain conditions.

Higher education (university, academies, polytechnics, etc.), secondary education (classical and technical) and complementary education, are given in Government institutions maintained by the State (except so far as contributions are received from the provinces and communes) by official professors who are paid by the State itself.

**HIGHWAYS.**—The provinces are responsible for the main provincial roads and the communes for the remainder, but, as already stated, the approval of the provincial administrative board is required to the laying-out of a new street by a commune or to an alteration in the classification of streets. •

The rates of assessment, etc., for charges in respect of road maintenance or betterment due to the construction or improvement of a road are fixed by resolution of the provincial or communal council as the case may be, approved by the provincial administrative board, and are subject to adjustment by the Minister of Finance.

**PUBLIC ASSISTANCE.**—A law of 1859, supplemented by

a law of 1890, laid it down that in every commune a *Board of Charity* (*Congregazione di Carità*) must be appointed by the communal council. The number of members, in addition to the president, is four in communes with a population of less than 5,000, eight where the population is from 5,000 to 50,000, and twelve in the remainder. Not more than half the members may be members of the council. The members are appointed for four years, one quarter retiring every year. "Extraordinary" members may be added, such as founders or representatives of charitable institutions.

The principal functions of a board of charity are to administer endowments, etc., which have no special administrative body, to undertake the legal representation of the poor before the administrative or judicial authorities, and to care for orphans and for the blind, deaf and dumb. It is not its function to distribute relief generally.

The boards of charity obtain their funds from voluntary subscriptions, donations and bequests.

The actual relief of the poor is carried out mainly by *Public Charitable Institutions* (*Istituzioni Pubbliche di Beneficenza*), which are recognised by law under certain conditions, but are, in fact, private organisations.

These institutions are subject to the control of a *Provincial Charity Commission* (*Commissione Provinciale di Beneficenza*) for each province, consisting of nine members (which number may be increased to thirteen in provinces having a population exceeding 500,000), of whom some are *ex officio* members, some are appointed by royal decree, and others are elected. The prefect is chairman of the commission.

**POLICE.**—Police duties (for the prevention and repression of crimes and the maintenance of public order) are exercised entirely by State organs, and the local authorities are in no way concerned with them. The police are under the superintendence of the Ministry of the Interior, and are responsible to the prefects and sub-prefects and to the mayors in their capacity of Government officers.

Such police powers as come within the functions of the local authorities (provinces and communes) never have any relation to the protective police properly so called, but rather to the administrative police (sanitary, rural, etc.).

### CONCLUSION

It is clear that the Italian system very closely resembles the French. The Italian sindaco is, perhaps, somewhat more of a local and less of a central official than the French maire, but on the other hand, the "giunta provinciale amministrativa" is an additional organ to the prefect for the control of the actions of the communes, while the variety of possible administrative appeals would seem to give yet further scope for the reversal of communal decisions.

Since the foregoing chapter was written it is reported that a scheme has been adopted (in October, 1925) by the Italian Government providing for the appointment of a Governor of Rome, who is to take the place of the mayor, aldermen and councillors, and is to be assisted by two Vice-Governors and ten Rectors, also nominated by the Government. A consulting body of eighty is to assist in an advisory capacity. It is understood that the Government has also approved a Bill establishing "Podestàs," to be appointed for five years in the place of the elected mayors and municipal councils in all municipalities with a population not exceeding 5,000. This would apply to 7,337 communes out of the total of 9,148. Full particulars of these developments are not yet obtainable, but they seem to involve a very serious change in the Italian local government system.

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## CHAPTER VI

### SPAIN

It is held that the municipality in Spain is no creature of the legislature, but that its existence was anterior to that of the State itself. The history of modern administration in Spain is usually said to start from 1812. Until a quite recent date the governing statutes were the Municipal Law of 1877, which was, however, amended from time to time, and the Provincial Law of 1882. In 1924 a new municipal law was passed, which deals with the whole sphere of local government on the plane of the municipality, and in March, 1925, a new provincial statute was approved, giving increased administrative and financial powers to the provinces.

### ELECTORATE

The municipal suffrage is enjoyed by all male Spaniards of the age of twenty-three, and by women of the same age who are heads of families in the legal sense. Election is by proportional representation.

### THE MUNICIPALITY

The *Municipality* (*Municipio*) in Spain may be said to correspond to the commune in other Continental countries, and may be urban or rural, but subdivisions of the municipality are recognised under the names of *anejos*, *parroquias*, *lugares*, *aldeas*, *caserios* and *pobladors*, which may themselves have local government powers to some extent.

The total number of municipalities in Spain before the Act of 1924 was over 9,000.

Municipalities may freely combine by agreement, and contiguous municipalities having a population of less than 2,000 may be compulsorily grouped together for the carrying out of duties delegated to them by the State, but remain independent so far as their self-governing powers are concerned. The system of "inter-municipal unions" is explained later under the head of Provincial Authorities.

A new municipality can be created only by abstracting territory from existing municipalities.

This cannot be done without the approval of the municipalities concerned, except that, where building development is such that groups of persons belonging to different municipalities and totalling more than 100,000 form a single community, the Government may, after hearing the local authorities concerned, incorporate such community as a municipality.

Municipalities with a population of less than 1,000 are governed by a general assembly or *Open Council* (*Concejo Abierto*) consisting, where the population is less than 500, of all the electors, and where the population is between 500 and 1,000, of one-half the electors. In the latter case, the term of service is six years, one-half retiring every three years.

Each municipality with a population of over 1,000 is governed by a *Town Council* (*Ayuntamiento*), which consists, in addition to the mayor and deputy-mayors, of *Popularly Elected Councillors* (*Concejales de Eleccion Popular*) numbering from eight where the population is from 1,001 to 2,000, to forty-eight where the population is over 200,000. *Substitutes* (*Suplentes*) to the same number as the councillors must be elected at the same time.

In addition to the ordinary elected councillors and substitutes, a municipality may have from three to sixteen *Corporate Representative Councillors* (*Concejales de Representacion Corporativa*). It is the duty of the provincial census boards to inscribe on a special register all societies, associations, etc., which, having had uninter-

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rupted legal existence in any locality for six years, and not being solely educational bodies, political clubs, amusement or recreation centres, associations with exclusively religious objects, or profit-making concerns, apply for registration.

The bodies so registered in each locality are to be divided into three groups, according as they are concerned with (a) wealth or production, (b) labour or (c) agriculture or other subjects. To each of these groups is allocated one-third of the total number of corporate councillors, who are chosen by representatives, one of whom is appointed by each registered association.

Both classes of councillors are unpaid. Their term of service is six years, one-half of each group being elected every three years and those going out of office being ineligible for re-election for a period of three years.

Electors who are twenty-five years of age are eligible as councillors of either type, provided that, except in municipalities having less than 1,000 inhabitants, capacity to read and write is essential and, for corporate councillors, membership of the body represented. There are a number of disqualifications of the usual type, as of persons holding official positions or concerned in contracts with the municipality. Persons of religious profession are also ineligible.

The *Mayor* (Alcalde) is elected by the council from among its own members, or from electors eligible as councillors. He is normally elected for three years and may be re-elected for a second term of three years by a two-thirds majority. Re-election for further three-year terms is subject to the referendum. The mayor is representative of the Government, as well as head and executive of the municipality.

The mayor is unpaid except that, in municipalities having a revenue of over 500,000 pesetas, a fixed sum may be paid towards the mayor's expenses, not exceeding 1 per cent. of the ordinary municipal income, and in no case more than 30,000 pesetas.

In each municipality as many *Deputy Mayors*

(*Tenientes de Alcalde*) must be elected by the council as there are municipal districts, with a maximum of ten, together with an equal number of substitutes.

In municipalities having a population exceeding 30,000, the council must also elect *Sworn Councillors* (*Concejales Jurados*), in number half that of the deputy mayors, who have certain duties in connection with administrative justice.

The mayor and deputy mayors constitute the *Permanent Municipal Committee* (*Comision Municipal Permanente*), which represents the council when the latter is not in session and generally acts as executive. The council itself must hold three ordinary meetings in the year and must sit in public.

A municipality having a population over 50,000, or an annual expenditure more than 50 pesetas per head, may, on the petition of one-twentieth of the electors by means of the referendum, apply for the introduction of the commission or city-manager system. In the former case, the commission must consist of from four to ten councillors, directly elected, each of whom will be head of a department. A city manager will be appointed by the council. The referendum, initiative and recall will apply to either commissioners or city manager.\*

The council of any municipality may, by a two-thirds vote, apply for a charter giving them a special form of constitution, but it is not permitted, in such a charter, to depart from the essential features of the municipal law. In either of these cases the application is made through the governor to the *Ministerio del Gobernacion* (Ministry of the Interior), who must consult the Council of State.

Each council must appoint a *Secretary*, but, in the case of any municipality in which the legal salary of the secretary would exceed 20 per cent. of the annual estimates, the council must combine with another municipality in the appointment of a secretary who shall act for both municipalities.

\* See U.S.A., pp. 280-282.



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The municipalities have been given, by the Act of 1924, a general power to act in the interests of the community, with special reference to a list of subjects, enumerated in the statute, which cover almost every conceivable activity. The obligatory functions are in themselves very extensive, and relate to public health, public assistance, housing, social insurance, education, care of highways, fire prevention and police. Town planning is obligatory on municipalities of over 10,000 population which have increased at least 20 per cent., during the period 1910 to 1920, and on municipalities of over 20,000 population within whose boundaries there exists undeveloped land likely to be developed.

Services may be municipalised which are general in character, are of prime necessity, are made use of mainly within the municipal area and are of direct or indirect benefit to a considerable part of the inhabitants. Municipal services may be carried on as monopolies if they relate to water supply, electricity, gas, sewerage, street scavenging, collection and utilisation of household refuse, slaughter-houses, markets, refrigerating chambers, bakeries, funerals, tramways and railways up to a distance of 40 km. from the boundary, or téléphones, or for any other purpose sanctioned by the Government on petition from any council.

Where a proposed municipal enterprise would involve a monopoly, and in certain other circumstances, such a proposal must be submitted to a referendum of the electors.

### MINOR LOCAL ENTITIES

The minor local entities within the municipalities (anejos, parroquias, etc.), differ in their organisation according as they have less or more than 1,000 inhabitants.

Those whose population does not exceed 1,000 must hold at least twice a year an *Open Council* (*Concejo Abierto*) consisting of all the electors. Each such entity

is also represented by an elected *Board* (*Junta*) consisting of a president and two assistants (*Vocales Adjuntos*), but a minor local entity having a population exceeding 1,000 may have a board, consisting of as many members as the number of councillors to which it would be entitled if it were an independent municipality.

Subject to the above, the council of the municipality within which a minor local entity is situated may decide the organisation and functions of its board.

The minor local entities may possess property and receive grants. They may also make additions to the taxes of the *municipio* to which they belong up to 10 per cent., and may, if two-thirds of the citizens approve, levy a tax upon the produce from the land in the district or other taxes authorised by the municipal law, provided that similar taxes are not levied by the *municipio* itself.

#### THE PROVINCE

A Royal Decree of 1833 fixed the number of *provinces* in Spain at forty-nine. The area of these provinces averages 3,975 square miles, and the estimated population (1923) ranged from 99,249 to 1,435,016.

In each province a *Governor* (*Gobernador*) is appointed by the Crown. This post is open to judges, notaries, State advocates, law officers of the Council of State, of Congress and the Senate, and professors of the faculty of law in the universities of Spain provided that they have occupied their posts for six years and are lawyers.

As the chief representative of the Government in the province, the governor is responsible generally for every branch of administrative activity except as regards taxation, education, and a few other matters.

The representative governing body of the province is the *Provincial Council* (*Diputacion Provincial*). Under the Act of 1925 the number of members of a council varies from seven to eighteen, and there are two categories equal in number, "direct" and "corporate"—the

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former being elected by universal suffrage on the system of proportional representation, and the latter being appointed by the municipalities. "Direct" deputies may not be, and "corporative" deputies must be, municipal councillors. "Direct" deputies hold office for six years, "corporative" deputies for two years. The full council must hold two sessions in the year, one for the examination and passing of accounts, and the other for the budget.

The provincial council nominates annually a *Provincial Committee* (Comision or Consejo Provincial), which is the executive body, the members of which receive a fee for each day's attendance.

Among the functions of provincial councils are the construction of high roads and roads not included in the general State plan, and of railways and inter-urban tramways; the establishment of telegraph lines between villages, control of education, credit institutes, savings banks, social insurance, building of cheap houses, encouragement of stock-breeding, timber-growing, supervision of charitable institutions, health and sanitation.

The municipalities of a province have the power to establish an *Inter-Municipal Union* (Mancomunidad) in the place of a provincial council, if at least one-third of the municipalities of the province, representing two-thirds of its electors, are in favour of so doing, but poor or small municipalities must not be excluded. Also a group of municipalities in one province amounting to not less than one-quarter of the total number may organise, independently of the diputación, any of the provincial services, provided that the majority of the electors in those municipalities are agreed and the desirability of the separation is proved. In either case the approval of the Government must be obtained.

Similarly, councils of adjoining provinces may form *Provincial Unions* (Mancomunidades Provinciales) of an administrative character for the carrying-out of works or

services of an inter-provincial nature. At the head of each *mancomunidad* there must be a superintending committee composed of representatives elected by each diputation.

#### FINANCE

**MUNICIPAL.**—The municipalities may obtain their revenue from income from their own property, profits on municipal enterprises, charges for services, local taxes, State subsidies or assigned revenues or additions to State taxes.

The law authorises the levying of local taxes, subject to the approval of the *Delegación de Hacienda* (a provincial body representing the Treasury) on businesses, unbuilt-on or uncultivated land, increment value of land, carriages, motor cars, bicycles, alcoholic liquors, meat, game, tenancies and funerals, as well as a general tax on every resident in the municipality, based on his financial condition, which is estimated on an elaborate and comprehensive system.

For the purposes of this estimate a *Valuation Committee* (*Comision de Evaluacion*) must be formed in each municipality for real and personal property respectively and for each parish (as regards personal property) if the municipality contains more than one. The highest contributors to each class of local tax are members of these committees, together with other persons, partly *ex officio*, and partly elected. A *General Board of Assessment* (*Junta General del Repartimiento*) is formed of two members of each committee. The oldest member of the board and of each committee is the president. Members are fined 5 pesetas for every non-attendance without good cause.

The general tax may not be levied in municipalities with more than 100,000 inhabitants. In those whose principal nucleus has a population between 10,000 and 100,000 it is only permitted if specially authorised by the *Delegado de Hacienda*.

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Any local authorities may borrow for a period not exceeding ninety days. Town councils are free to raise loans for any period up to one-sixth of the revenue relating to the subject for the purpose of which the loan is to be raised, but, with certain exceptions, resolutions relating to loans must be submitted to a referendum of the electors.

The annual estimates must be prepared by the permanent municipal committee and approved by the council. In the case of a municipality which includes minor local entities, a representative of each of these, in addition to the councillors, must take part in the meeting of the council at which the estimates are approved.

PROVINCIAL.—The finances of the provincial authorities have been placed on a new basis as from July, 1925. The State transfers to the diputaciones 5 per cent. of the tax on agricultural land as well as the tax on personal "cedulas" (identity cards), which is a tax assessed on three categories of persons, viz. :—(1) those who earn income subject to the tax on salaries, (2) those who pay taxes on town property and business, (3) all other persons ; the tax being graduated within each category.

The provincial authorities are also entitled to levy a surtax up to 100 per cent. on municipal taxes on land which is not built upon or not brought into cultivation ; 20 per cent. on certain taxes affecting such property, 10 per cent. on the State stamp tax, and certain other taxes. They may levy a tax of 30 per cent. on bets at pelota.

In connection with some of these taxes a national provincial fund is created, administered by representatives of the State and the provincial councils, through which the proceeds are to be distributed as occasion arises.

Additions to other taxes are allowed to cover extraordinary loans and budgets, but these require special measures and must be submitted to the municipalities for their ratification.

## ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—The municipalities are the public health authorities. The obligatory functions of town councils under this head include the protection of drinking water, house inspection, sanitary supervision of buildings, street scavenging, inspection of food, school hygiene and the periodical examination of scholars, vaccination and the provision of hospital accommodation in case of epidemics. All town councils must provide public cemeteries. Municipalities with a population over 15,000 must, in addition to the above, introduce by degrees modern systems of sewerage, must draw up a register of all dwellings from the public health standpoint, and provide for a water supply of 200 litres daily per person.

Councils of municipalities whose population does not exceed 15,000 must appropriate at least 5 per cent. of their annual revenue to public health purposes. In the case of larger municipalities there is no such defined limit, but their expenditure on this subject must be sufficient.

Town councils may further carry out public health works of various kinds, including destruction of unhealthy dwellings and improvement schemes, provision of houses, water and sewage works, and any works necessary for the carrying out of town-planning schemes.

Proposals of this description by municipalities which are not provincial capitals and where the population does not exceed 30,000 must be submitted to the *Provincial Sanitary Commission*, which consists of the chief engineer of public works, the provincial sanitary inspector, representatives of the official medical and pharmaceutical organisations of the province, and of the faculty of medicine where such exists, a provincial and municipal architect, and two engineers. It is presided over by the civil governor. In the case of larger municipalities the proposals must be submitted to the Central Sanitary Commission. Both the central and the provincial

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sanitary commissions are appointed by the Ministry of the Interior for two years.

Municipal health regulations were approved by royal decree in February, 1925. Under these regulations every municipality must have a *Health Committee*, which, in municipalities of less than 15,000 inhabitants, will consist of the mayor as president, the secretary of the town council, the technical officials, the priest and the school-master, with the municipal inspector as clerk. In larger towns the number of members is to be increased. It is the duty of these committees to draw up local health regulations, to watch the health of the people, and to propose any measures they think necessary to improve it.

EDUCATION.—Education is centrally organised under the Ministry of Public Instruction and Fine Arts, assisted by the Council of Public Instruction, a body consisting of an ex-Minister of the Crown as president and thirty-seven nominated members. The subordinate authorities are (1) the university rectors in the ten university districts ; (2) the governors in the provinces ; and (3) the mayors in the municipalities.

The provinces and municipalities are obliged to establish schools, which are supervised by the university rectors.

Provincial and local boards exist, but these are purely of an advisory character. The *Local Boards* in each municipal district are nominated by the governor, and consist of the mayor, three or more fathers of families, and other persons. The *Provincial Boards* include the governor as president, a provincial deputy, a provincial councillor, a member of the provincial statistics commission, a professor from the provincial secondary school, a member of the municipal council of the provincial capital, the provincial inspector of schools, a priest as diocesan delegate, and two or more fathers of families.

Every province must have an instituto (school for higher education), and councils of towns with a population exceeding 20,000 must provide or assist institutions

for professional, technical, or artistic education suitable to the particular needs of the inhabitants.

The expenses of the elementary schools fall upon the municipal budget, as also do those of any other municipal educational institution.

From 1926 the provinces will be relieved of certain of their liabilities in relation to education.

**HIGHWAYS.**—Roads in Spain are either main roads, which are kept up by the State, or provincial roads, which are constructed by the provinces at their own expense and after approval by the Ministerio de Fomento, or country roads. The latter are constructed by municipalities at their own charges and approved by the governor, but if the road passes into another province the approval of the Ministerio de Fomento is also required. For such charges the mayor may levy a personal contribution from every one in the municipality, either in money, in kind or in labour, but he seldom exercises this power.

The municipalities are responsible for the maintenance of public highways for which neither the State nor the provinces are liable. By the Act of 1925 the construction and maintenance of secondary roads was handed over to the diputaciones, it being provided that the State would aid this service for a period of ten years with sums not less than the amounts which it has already spent. Each diputacion was required to work out within a year a plan of the secondary roads to be made in the province, so as to connect all centres having seventy-five or more inhabitants.

**PUBLIC ASSISTANCE.**—*Municipal Boards of Charity* (Junta Municipal de Beneficencia), consisting of five to nine members, the head of which in each case is an ecclesiastic appointed by the mayor after nomination by the town council, organise all kinds of domiciliary assistance, including relief in kind, monthly accounts of which are rendered to the municipality.

Every municipality with a population exceeding 15,000 must provide an institution (Casa de Socorro) for the



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assistance of the seriously sick and for the cure of injured persons.

Town councils may take action for the repression of the abuses of begging and vagrancy, for the protection of minors, orphans, etc., may establish institutions such as hospitals, asylums, dispensaries and clinics, and may carry out domiciliary assistance and other functions of a like nature.

The municipal boards are supervised by a *Provincial Board of Charity* (Junta Provincial de Beneficencia), consisting of seven to eleven members, of whom one-third are appointed by the governor, one-third by the president of the diocese, and one-third by the provincial authority. The term of service is four years.

**POLICE.**—The municipalities are obliged to provide local police, both to supervise the carrying out of municipal ordinances and to protect life and property (Policia Urban y Rural and Policia de Seguridad). The policia de seguridad are controlled by the Minister of the Interior through the governors of the provinces and the mayors in the municipalities. The cost is borne by the State.

The *Civil Guard* (Guardia Civil) is a police force on military lines under the Ministry of War, the Ministry of the Interior and the Ministerio de Fomento. The governor of the province may avail himself of the services of this force within his province, but takes no part in their supervision, and mayors may also obtain their assistance.

There are special police forces in Madrid (Cuerpo de Vigilancia and Cuerpo de Seguridad) which are directly under the Minister of the Interior.

### CONCLUSION

The system of local government in Spain, although its framework bears traces of French influence, differs widely from that of France in the extent of decentralisation. The law has always recognised a very high degree

of independence in the local authorities, and this has been accentuated by recent legislation.

This fact, however, has not hitherto resulted in any great municipal activity. Throughout a considerable part of the country the old municipal and provincial laws were never actually in force. It remains to be seen whether greater advantage will be taken of the new Acts.

Apart from the question of decentralisation, the Spanish system contains a number of special features, such as the number of "minor local entities" possessing certain local government powers, the representation of corporations on the town councils, the provision for unions of municipalities to take the place of the normal provincial councils and the combination on the latter councils of both direct and indirect election. Spain also differs from other Latin countries in that under the present law all differences between the communal authorities and private persons go before the ordinary courts.

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## CHAPTER VII

### DENMARK

COMMUNAL self-government in Denmark developed from the poor law commissioners elected under an Act of 1803, and was definitely established by the Constitution Law of 1849, while the county organisation depends mainly on the Country Communal Law of 1867, which was followed by a law on the government of market towns in 1868. The Electoral Law of 1908 made some important alterations in the matter of elections.

#### THE COMMUNE

There are 1,289 *Parish Communes* (Sognekommune) and eighty-six *Market Towns* (Kobstad) or *Town Communes*. The population of the former varies from thirty to 34,451, of the latter from 1,034 to 74,256.

In each commune a *Parish Council* (Sogneraad) or *Town Council* (Byraad), as the case may be, is elected for four years. The members are unpaid. The number of members of a parish council must always be an odd number, and is seldom greater than nine or less than five.

The right to vote or to stand for election is possessed by every man or woman of good reputation who (1) has citizen-rights (right of birth), (2) has reached the age of twenty-five, (3) has resided in the commune since the beginning of the preceding financial year, and (4) is a taxpayer to the commune and not in default for taxes for the current or immediately preceding year. Disqualifications are the receipt of poor relief and non-capacity to manage a home.

Each parish or town council elects its own chairman, who is known as the *Burgomaster* (Borgmester) in the towns.

The burgomaster is also a State official for a few purposes, as for the celebration of civil marriages. He may be paid for his services in accordance with standing orders. The chairman of the parish council may receive a small annual compensation.

The communal authorities deal with sanitation, water supply, drainage and lighting ; streets and roads, except the "national roads" ; public assistance ; education ; police (in market towns) ; fire protection ; hospitals, etc. They are also responsible for assessment and for the collection of State income and property taxes.

The burgomaster or chairman of the parish council is the executive authority, but in certain towns the burgomaster is assisted by a body known as the *Magistrat*, consisting of from two to four members elected by the town council from among their own members, the burgomaster himself being chairman.

The appointment of standing committees is not usual in the parish communes, but is the practice in the towns. Such committees consist of one or more members of, and appointed by, the town council, and manage their affairs independently within the limits of the sums placed at their disposal in the annual budget.

The communal authorities also appoint a number of bodies which do not necessarily consist of members of the council, and some of which must include certain officials. Thus, in towns, the fire committee must include the police superintendent and the fire inspector, and the former must also be a member of the public works committee and the licensing committee.

#### THE COUNTY

There are twenty-two *Counties* (*Amtskommune*), three of which are divided into two districts for administrative purposes.

Each county or county district has a *County Council* (*Amtsraad*), which is formed by indirect election, namely,

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of representatives who are elected for six years by proportional representation from all the parish councils in the county, in such a manner that each parish council elects three representatives and, in addition, a representative for every 600 voters over the first 600.

The market towns are not represented on the county councils, but co-operate with them for many purposes.

The county councils are responsible for the chief rural highways, for certain branches of public health administration, and for dealing with contagious diseases of animals. They also issue licences for rural public-houses and inns, and co-operate in carrying out the rural by-laws concerning public works and fire brigades.

The *County Sheriff* (Amtmand) is appointed by the Crown. He is the representative of the State, and at the same time chairman and executive authority of the county council. He has the superintendence also of the parish communes, and can suspend any decision arrived at by a parish council, if he considers that it is contrary to the law or would be detrimental to the commune.

The sheriff settles disputes between communes with respect to Poor Law cases, issues orders for maintenance contributions, and acts semi-judicially in a number of other respects. He is also chairman of the school board, appoints parish constables, chief chimney sweeps and overseers of snow shovellers, and superintends the execution in the county of the Fire Brigade Law.

He also presides over various county bodies, including the *Trade Taxation Committee*, whose other members are appointed by the county council, and whose function it is to settle complaints as to assessment of local trade taxes; the *Board of Agriculture*, consisting of an officer of justice and two other members appointed by the Ministry of Agriculture on the nomination of the county council, which decides matters relating to watercourses, hedges and way-leaves; the *Higher Epidemic Commission*, consisting of the county medical officer, two members elected by the county council, and one by the

town council of the county town, which acts as the superior supervising body for the enforcement of the Epidemic Laws.

#### FINANCE

COMMUNAL.—Communal resources are obtained from returns from capital and property, municipal undertakings (lighting, hospitals, water supply, etc.), fines and levies and local taxes.

Communal taxes are levied partly on immovable property and partly on incomes. The assessment to the former, so far as it relates to buildings, is based on the insurance value.

Local income tax, on persons residing in the commune, is based on the total income and, in order to adjust it to the circumstances of each taxpayer, the commune may increase his assessment 30 per cent. above or reduce it 70 per cent. below his actual estimated income. In the parish communes it is also permissible to differentiate between earned and unearned income. Persons who do not reside in the commune, but carry on business within it, are taxable on the amount actually earned there. This tax is rated at a rather less percentage than the residential tax, and may be adjusted according to the tax paid in the commune of residence.

The communes also receive State contributions for education, highways, old age pensions, and poor relief.

Copies of the estimates, which do not require the approval of higher authorities unless the taxes exceed a certain amount, are sent to the county councils in the case of the parish communes, and to the Minister of the Interior in the case of the towns. The annual statement of accounts must be audited by two auditors, after which the final decision in the case of the parish communes is made by the county council, whilst in the towns it rests with the communal authorities themselves.

COUNTY.—The county councils can levy taxes on immovable property, but not on income. They can also

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require contributions from the parish communes in the district, but this may not exceed one-third of the amount which is levied on real property. There is, further, a County Poor Fund, to which various fines and taxes are payable.

The market towns contribute to the county expenditure in respect of road making and maintenance in proportion to the relation of the land tax in the towns to that in the county district. The cost of the maintenance and repatriation of foreigners and of the treatment of epidemic and venereal diseases is shared by towns and parish communes in proportion to population.

The sanction of the Minister of the Interior is needed only if the taxes levied exceed the average amount of the estimates of the last three years plus one-fifth, or for the raising of loans, the use of reserve capital, or the purchase or disposal of real property.

An assessment committee is directly elected annually in each commune, and in the towns assesses for State as well as local taxes. There is an appeal from this committee to a county liabilities council as regards assessments on real property.

### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—For public health purposes the country is divided into twenty-six *County Medical Areas* (Amtsætgekredse), each with its own *County Medical Officer* (Amtslæge). These districts correspond to the counties, and are sub-divided into eighty *Districts* (Kredslægekredse), each with its district medical officer (Kredslæge).

The district medical officers (of whom a large proportion are also county medical officers) are appointed by the Crown, but are not full-time officials. They have extensive duties in regard to inspection and supervision.

In every commune which has sanitary regulations there must be a *Health Committee* (Sundhedskommission

which usually consists of three or five members, but in the more thickly populated districts may have as many as thirteen. The police superintendent is the chairman of this committee in the towns. The district medical officer must be a member in the commune in which he lives, and may attend the meetings of the committee for any other commune in his district.

In any commune in which there is no health committee, there must be an *Epidemic Committee* (Epidemikommision), and there is also a *County Epidemic Committee* covering all the municipalities in the county.

The communal health committees are empowered, by the sanitary regulations of the municipality, to take any measures necessary in the interests of the public health.

The county authorities are responsible for hospitals, for the treatment of epidemic and venereal diseases, for vaccination and midwifery.

EDUCATION.—In each county there is an *Education Committee* consisting of all the members of the county council and a corresponding number of members elected from all the town councils in the county.

A *School Board* is established in connection with every "deanery," consisting of the sheriff, the dean and one elected member.

All the school boards within the county form, under the presidency of the sheriff, the *County Board of Education*, which, together with the education committee, administers the education funds, the immediate supervision of the school administration being undertaken by the school boards.

The county education committee can levy a tax on the county districts and the market towns to defray any expenditure not covered by State grants.

There is also a *Communal Education Committee*, consisting of the parish priest and some members chosen by the communal authorities, which directly superintends instruction in the schools and the duties of the teachers.

HIGHWAYS.—The county councils are responsible for



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the chief rural highways, which they administer through a *Roads Committee*. All other streets and roads are under the care of the communal authorities.

**PUBLIC ASSISTANCE.**—The administration of poor relief is carried out in the towns (except Copenhagen) by a committee of the municipality, and in the rural districts by a committee of the communal council. The work of these committees is subject to the control of paid officials, namely, in the case of the former, the burgomaster, and, in the case of the latter, the sheriff.

In Copenhagen the administration is in the hands of the third section department of the municipal council, whose chief, the "Third Section Burgomaster," is a trained official, responsible for the work of his department to the municipal council.

**POLICE.**—Police superintendents, nominated by the Crown, are the chief public authorities in their districts. The county councils are responsible for the maintenance of police stations, etc. Parish constables are appointed by the sheriff.

### CONCLUSION

Denmark is one of the few countries in which indirect election (or election of the second degree) to a local authority is in force. The county councils, it will have been observed, consist of representatives of the parish councils.

Local income tax is levied by the communes, but not by the counties.

The sheriff, who corresponds to the prefect in France, has wide authority over both county and communal councils and exercises a number of functions in his personal capacity, especially in connection with the administration of poor relief.

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## CHAPTER VIII

### SWEDEN

#### LOCAL STATE ADMINISTRATION

THE local State administration dates, in the main, from 1634, when the kingdom was divided into Counties (Län). For each county (there are twenty-five in all—the city of Stockholm included) the Crown appoints a *Governor* (Landshövding; in Stockholm a *High Governor*—Överstathållare), who is the head of the *Provincial Government* (Länsstyrelse; in Stockholm Överståthållare-ämbete).

Each county is divided into *Bailiwicks* (Fögderier). In each bailiwick there is a *District Clerk* (Häradsskrivare), who is responsible for the levy of the Government taxes, which are based upon assessments of taxation fixed by a committee chosen by the commune. Further, there is a *Bailiff* (Landsfiskal), who performs the duties of public prosecutor and chief constable in his district and also collects unpaid taxes and rates, fines and other claims. The taxes are paid through the post offices, the rates through the communal authorities.

In the older cities (with the exception of Stockholm) the supreme authority under the Governor is the *Magistracy* (Magistrat), consisting of the *Burgomaster* (Borgmästare) and *Magistrates* (Rådmän). The magistracy is at the same time a judicial court of first instance (Rådhusrätt). The burgomaster is always a lawyer, as are the magistrates in the larger cities; in the smaller towns there are also members of the magistrat who are not lawyers. The burgomaster is appointed by the Crown from a list of three persons, nominated by the electors of the town. The magistrates are, as a rule, elected by the

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town council. All members of the magistracy are salaried, and retain their posts for life or until they are pensioned off. Subordinate to the magistracy are the officers salaried by the town : the chief of police (Polismästare, Poliskommissarie), public prosecutor (Stadsfiskal), assessor and receiver of Crown taxes (Kronouppbörds-kassör), collector of unpaid taxes (Stadsfogde).

In the newer towns the magistracy (Stadsstyrelse) is not a judicial court, but only an administrative authority. The president (sometimes called Kommunalborgmästare), who does not need to be a lawyer, is at the same time chief of police.

### LOCAL SELF-GOVERNMENT

Local self-government in Sweden is of great antiquity. The present organisation dates from 1862, when four separate local government laws were passed for rural communes, towns, parishes and counties respectively. These Acts are still in force, though they have been very much changed, and for the counties a new Act was passed in 1924.

All men and women who have in the preceding year attained the age of twenty-three (or, for county council elections, twenty-seven) years are communal electors, except such as are under guardianship, bankrupts, in receipt of public support, or who have not paid their rates for at least one of the last three years or who have been deprived of their vote by the court.

### THE RURAL COMMUNE

The kingdom of Sweden has been from early times divided, for ecclesiastical purposes, into parishes, and it is laid down by ordinance that in rural districts each parish constitutes in itself a commune. There are at present about 2,400 rural communes, having an average population of 1,700, and an average area of about 73 square miles.

In theory, the government of the commune is in the hands of the whole body of electors assembled at a *Communal Meeting* (Kommunalstämma).

The communal meeting elects its own president and vice-president for four years.

Any commune may, and all communes with a population of more than 1,500 must, elect a *Communal Council* of from fifteen to forty members (Kommunalfullmäktige), to which are delegated the powers vested in the communal meeting. The communal council is elected for four years; it elects annually its own president and vice-president.

In addition to the communal council, which is a deliberative body, an executive, known as the *Communal Board* (Kommunalnämnd) and consisting of five to eleven members, is elected for four years. The communal meeting or the communal council elects annually a president and a vice-president for the communal board from among the members of the board and for the same period.

The powers of the rural communes are not defined by law, and there is considerable uncertainty as to their extent. In practice, they are concerned mainly with poor relief and public health.

Church and school matters are dealt with in the ecclesiastical parishes, where the deliberative powers are in the *Vestry Meeting* (Kyrkostämma), and the executive authority in the *Vestry* and *School Boards*, which have within their respective departments much the same position as the communal board in the commune.

A portion of a rural commune which has developed an urban character may be constituted a *Municipal Community* (Municipalsamhälle), in which case it is given distinct urban powers relating to police, town planning, building, fire and sanitary regulations, with a municipal administration of its own, while for other purposes it remains part of the rural commune. The total number of these in 1924 was 195.

There are also thirty-seven so-called *Market Towns*

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(Köping), which occupy an intermediate position between the country and the town.

### THE TOWN

The towns which are independent of the rural communes are 111 in number.

As in the rural communes, the whole body of electors assembled in *Town-meeting* (Allmän rådstuga) is in theory the deliberative authority.

In towns of over 1,500 inhabitants, and in smaller towns if desired, these functions are carried out by an elected *Town Council*, consisting of from fifteen to sixty members (Stadsfullmäktige). All towns, except one, have now town councils. The town council is elected for four years and elects annually one president and one or two vice-presidents.

According to the Municipal Act, the supreme municipal authority is the *Magistracy* (Magistrat), but its concern with the municipal administration is now mainly of a formal nature and is limited to seeing that the decisions made by the town council are in accordance with the law.

The executive authority is now exercised by special committees elected by the town council. Of most importance is the *Board of Finance* (Drätselkammare), which must exist in every town and which manages the municipal property. Special committees have to be appointed under certain Acts of Parliament for various purposes.

### STOCKHOLM

The administration of Stockholm is subject to special regulations. The *Town Council*, which consists of 100 members, appoints a *Town Board* (Stadskollegium), which exercises supreme supervision over the administration and at the same time acts as a committee for the preparation of the business of the town council. The town board consists of the president of the town council and its

two vice-presidents, three to six aldermen (Borgarråd), who are paid officials elected for six years, each being in charge of a special department of the administration, and nine unpaid members. The royal governor of Stockholm occupies much the same position as the magistrat in other towns.

### THE COUNTY

The *County Council* (Landsting) is the representative body of the county. Both rural communes and towns are represented upon it. A town which has a population of at least 50,000 inhabitants has the right to withdraw from the county council. At present there are six towns which are not represented on county councils, including two which, though having a lower population than 50,000, are exempted under an older regulation.

The members of the county council (at least twenty in number) are elected for a period of four years by communal electors who have attained the age of twenty-seven not later than the preceding year. The chairman is elected by the council from among its members.

The council meets annually in September. An *Administrative Committee* (Förvaltningsutskott) must be appointed to carry on the business in the intervals between sessions.

It is laid down by ordinance that it is the function of the county council to deliberate and resolve on business affecting the general economics of the county, the development of agriculture and other industries, measures for the improvement of communications, health, education, public order and safety and the like, in so far as such business does not fall within the province of a central authority. This appears to be construed as meaning that the county council is expected to administer such matters as cannot conveniently be dealt with by the communes. In practice, its functions are mainly confined to public health, the expenditure on this subject amounting to about two-thirds of the total expenditure.

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The county councils, together with special bodies of electors in the five cities which are not included in counties, elect the members of the First Chamber.

### JOINT LOCAL BOARDS

In accordance with an Act of 1919, towns, rural communes, market towns, and municipal communities can form unions for the purposes of local administration. Such unions can also be formed by county councils and by a county council and a town. The members of a union elect a board of directors.

### FINANCE

The main source of communal revenue is the local income tax, which is levied in proportion to assessed income.

A further graduated tax may be levied on any amount exceeding 3,000 kroner which is subject to income and property tax, but the basic rate of this tax may not exceed 6 per cent. of the assessment. Out of the produce of this tax, 75 per cent. may be retained by the commune in question. As much as may be necessary of the remaining 25 per cent. is allotted to the Crown for relief to rural communes having specially high rates.

Special communal taxes are the wood tax, which is levied in proportion to the value of the wood that is cut in the commune, the dog tax, which may not exceed 30 crowns per dog per annum, and the entertainments tax, which is imposed upon the frequenters of certain places of amusement and is levied in proportion to the price of the ticket. The two first-mentioned taxes are obligatory, the last is optional.

The communes receive State grants towards the furtherance of public health, combating sickness, construction and maintenance of highways, construction of bridges and harbours, and especially for education.

Furthermore, the towns and counties are indemnified for the loss of certain privileges previously enjoyed, such as profits from the sale of spirits under the so-called Gothenburg System.

Decisions as to the levying of communal rates and other financial matters are made by the meetings or councils. A two-thirds majority is necessary for decisions concerning sale and purchase of real property, expenditure on new objects and needs or causing the rates to exceed a certain minimum, questions of loans and remission of unpaid rates.

The main source of county revenue is the county rate (*Landstingsskatt*), similar to that levied in the communes.

#### PAYMENT OF MEMBERS

The chairmen of meetings and councils are entitled to compensation for their outlays for writing materials, postage and the like. The members of communal councils may be granted a certain travelling allowance; the members of county councils have the right to allowances for daily and travelling expenses. The members of committees and auditors may also be granted allowances for daily and travelling expenses. The members of committees who are charged with a special commission (as chairman, secretary, treasurer, etc.) and the auditors may be salaried for their work, in addition to the compensation they receive for their outlays and for travelling and daily expenses.

• : •

#### CONTROL OVER COMMUNES

The communes in Sweden enjoy a considerable measure of self-government.

Certain communal decisions, however, must be submitted to the county governor for approval, while others need the sanction of the King in Council, that is, the Government. Among the latter are to be noted decisions



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relative to the raising of loans. If the loans exceed a certain margin, they must be examined by the Ministry of Finance, which, when towns are concerned, is assisted by the financial committee of the Swedish Union of Municipal Corporations.

If any member of a commune is of the opinion that a resolution infringes his private rights or is contrary to law, he may appeal to the governor, whose office acts as an administrative court of first instance, there being a further appeal to the Crown, whose powers in this respect have been delegated to the *Government Court* (Regeringsrätt), which is the supreme administrative court.

### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—The public health of the kingdom as a whole is supervised by the *Royal Medical Board*, which consists of a director general and six bureau chiefs, of whom four are doctors and one a veterinary surgeon.

In each commune and municipal community the public health powers are exercised by a *Board of Health*, whose duty it is to see that the Public Health Act of 1919 is enforced and to supervise all matters that may affect the physical well-being of the community.

For the treatment of infectious diseases, each county, and certain larger towns, constitute *Epidemic Districts*, each having an *Epidemic Committee*. In each district there must be as many isolation hospitals as are needed.

Grants are given by the State towards the cost of building and maintaining isolation and consumption hospitals, as well as institutions for the mentally defective.

The lunatic asylums are, as a rule, in the hands of the State. The communes must provide accommodation for its pauper lunatics, and for that purpose they receive grants from the county council.

The kingdom is divided into 252 *Medical Officer of Health Districts*. In each county there is a *Chief Medical Officer*, who is paid by the State. Supernumerary medical

officers are paid by their districts, in certain cases receiving grants from the State and the county council. The borough medical officers of health are paid by the towns.

The communes in the kingdom are divided into *Midwives Districts*, each having a district midwife, paid by the district, which receives grants from the State and the county councils. In each county there must be a *Midwives Board*.

EDUCATION.—For purposes of elementary education every parish (Kyrkoförsamling) constitutes as a rule a school district, governed by the *Vestry Meeting* (Kyrkostämman), whose executive is the *School Council* (Skolråd), which consists of the rector of the parish (as chairman) and other members selected for four years by the vestry meeting. In the towns the town council is, as a rule, the representative body; the executive authority is vested in a *School Board* (Folkskolestyrelse), which consists of eight to twenty members, elected for four years, one-half by the town council, and the other half by the vestry meeting. For the continuation schools, which are obligatory, a special committee may be established.

There are also communal intermediate schools, for which the communes are primarily responsible, receiving grants from the State.

Trade schools are established by many communes, but the technical colleges are State institutions.

The State gives grants in aid and has a staff of inspectors working under the *Royal Board of Schools*, which is the central authority.

Most of the secondary schools are State institutions, but the town in which such a school is situated must provide a free site for the schoolhouse and playground, and as a rule is liable for the building and maintenance of the schoolhouse and for the housing of the rector.

Education of deaf and dumb persons is a function of the counties.

HIGHWAYS.—In 1922 the kingdom was divided into 379 *Road Service Districts*, for each of which a *Highway*

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*Board* is chosen by the persons responsible for the upkeep of the roads.

The roads are, for the most part, maintained in kind by the owners of landed estate. This work is valued, and of the costs thus arrived at three-tenths are defrayed by the State, the remainder being divided between the different landed estates. Other taxation units (other real property, income from capital or earned income) pay a road tax to the district's funds. The road tax is used for the construction of roads, maintenance of roads in the winter, etc.

In many towns, the owners of real estate are liable for the upkeep of the roads, either in kind, or by paying a road tax. In other towns the expenses are covered by the general rate.

**PUBLIC ASSISTANCE.**—The relief of the poor is now governed by the Poor Law Act, 1919. It is vested in *Boards of Guardians*, elected by the representative bodies in the communes. There is, as a rule, one in each parish, these being assisted by voluntary guardians and paid officials. For institutional relief every commune or union of communes is obliged to have a poor-house. Each county or union of counties is obliged to have a work-house, intended for persons who are able to do some work and for those who have been sentenced to work because of their negligence in supporting their families.

In each commune or union of communes there must be a *Child Welfare Committee*. In each county or union of counties there must be a reformatory and industrial school for the education of vicious children.

There is a State inspection system, consisting of *Poor Law* and *Child Welfare Advisers*, who assist the county governor's offices, and a *Chief Inspector* in the Royal Social Department.

**POLICE.**—The Governor is the highest police authority in the county, assisted by a *Chief Constable* (Landsfogde), who is chief of police and the supreme public prosecutor in the rural districts and in the new towns ; subordinate

to him are *Bailiffs* (Landsfiskal), who are chiefs of police in their respective Bailiwicks and *Police Sergeants* (Polisuppsyningsmän) in the market towns, these being also public prosecutors. Subordinate to the bailiffs are *Parish Constables* (Fjärdingsmän), paid by the communes.

Beside this regular organisation is the "special police force in the country," which consists of (1) policemen, paid by the State with contributions made by communes, railway and industrial companies or private persons; (2) mounted police, generally paid by the State and the counties; and (3) a reserve police force, which is provided in case of disturbance by certain towns according to agreement with the State. In the towns where special police directors do not exist, the management of the police is in the hands of the "magistrat," assisted by the public prosecutor (Stadsfiskal) or a police inspector (Poliskommissarie).

#### CONCLUSION

Local self-government in Sweden can be traced back as far as Swedish history extends into the past, and there have been few encroachments on it in modern times, except in the matter of financial control. This is based on the principle of grants-in-aid, which now amount to about one-third of the total receipts, and the system is used as in England to encourage municipal activity and raise the standards of local administration.

Apart from the grants-in-aid, the communes depend almost entirely upon the local income tax. The system of graduated local income tax which is recognised in Sweden is exceptional.

It is to be observed that the Swedish burgomaster, who is appointed by the Crown, does not preside over the town council, which elects its own president or chairman annually, but is the salaried head of the "magistrat," which is an administrative authority, which checks the proceedings of the town council from the point of view

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of legality, and is at the same time, in the older towns, a judicial court of first instance.

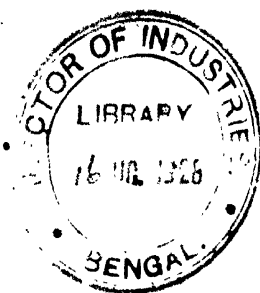
The "municipal communities" are practically special districts with *ad hoc* authorities for different purposes.

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## CHAPTER IX

### NORWAY

IN ancient times every Norwegian town had its assembly of householders. At the head of this body was a royal official, whose principal duty was the collection of taxes and fines. At a later date he was superseded by a municipal official with similar functions. The form of local government differed greatly in the various provinces of Norway, but in the course of time a homogeneous system was evolved out of these local varieties.

Until the beginning of the nineteenth century, Norwegian municipalities were generally governed by a royal official, and even the councillors were nominated by the Crown. In 1814, however, the political self-government introduced by the Constitutional Law of May 17th brought into prominence the need of reform in local government, and the Municipal Act of 1837 was passed.

This law conferred upon local authorities probably a more comprehensive form of self-government than was to be found at that time in any other part of Europe. It was amended from time to time and local developments which took place were incorporated in it, a complete consolidation being effected by an Act of 1921, which governs the existing system.

#### THE DISTRICT AND THE TOWN

The *District* (Herred) is the smallest division of the country for purposes of local government. There are no statistics as to the total number.

There are forty-three *Towns* (By), of which twenty-four (*Ladesteder*) are independent of the counties, their popu-

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lation varying from some 3,300 inhabitants in Hammerfest to 260,000 in Oslo (Christiania).

Every district and town has a *Council* (Herredstyre or Bystyre), which is elected for three years, all Norwegian subjects of the age of twenty-three years, and having resided in the district or town for the previous two years, being entitled to vote, unless convicted of certain penal offences. Any municipal voter is eligible for election, and is also bound to accept unless he has served for the preceding three years or reaches the age of sixty before expiry of the year of election.

The council elect their own *Chairman* (Ordfører) for a period of three years in the country and one year in the towns. The *Burgomaster* (Borgermester), who is appointed in towns by the municipality, is a salaried official, whose position is very similar to that of the town clerk in England. In the smaller rural municipalities it is usually left to the chairman personally to perform all administrative functions, and in that case he may receive compensation as fixed by the council. In the larger rural municipalities the chairman will, as a rule, be assisted by a permanent salaried secretary, appointed by the council.

An *Executive Committee* (Formåndskaap), consisting of one-fourth of the district or town council, is appointed by the latter.

The district and town councils have very wide powers to act generally in the interests of the community. For a number of purposes, however (see Public Health, Education, etc.), they act through semi-independent bodies, some or all of the members of which are appointed by the council or executive committee. Water and electricity enterprises are very largely municipal, and tramways and cinematographs are run municipally in certain of the towns.

### THE COUNTY

There are eighteen *Counties* (Fylke), whose area varies from about 900 to over 18,500 square miles, and population (1920) from 44,190 to 180,000.

The *County Council* (Fylkesting) consists of the chairmen of the district councils in the county. The *County Governor* (Fylkesmand), who is appointed by the King, may take part in the proceedings of the county council, but has no vote. He is responsible for the administration of the county in accordance with the decisions of the county council, while being at the same time the chief representative in the county of the central Government.

The county council usually meets once a year. It is concerned mainly with matters relating to police, lunatic asylums, schools and highways.

#### FINANCE .

The municipal revenues for the year 1918-19 were obtained from local taxes (73·6 per cent.) dues (1·2 per cent.), income from works and property (12·6 per cent.), and refunds (12·6 per cent.).

A property tax is levied in towns on all real property within limits of 2 to 7 per 1,000 of its assessed value, and a land tax in the country districts. A tax on capital is levied in respect of all persons residing in the municipality at the rate of 1 to 3 (if necessary 4) per 1,000, and an income tax may also be levied up to 12 (or, if necessary, 15) per cent.

The "dues" are in the nature of licences for trades and businesses, dog licences, entertainment taxes, etc.

• The expenditure of county councils is defrayed partly by direct taxation on real property and partly by precepts on the districts or parishes. • •

The raising of a loan for a period exceeding five years by district, town or county councils requires the sanction of the Crown.

#### CONTROL OVER LOCAL AUTHORITIES

Every decision of a district or town council must be submitted to the fylkesmand for his approval. If the



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decision is not passed by a two-thirds majority, or if the fylkesmand has any observations to make upon it, the matter must be referred back to the council for reconsideration and, if a two-thirds majority in its favour is still unobtainable, the minority can demand that the decision be subject to the approval of the King. If the minority take no action, the decision becomes valid.

### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—For public health purposes the country is divided into 395 districts, varying considerably in size, the towns constituting districts in themselves, while the rural districts cover very wide areas, the two largest extending to 2,400 and 4,400 square miles.

In each district is a *Medical Officer* (Stadsfysikus, Stadslæge or Herredslæge), who is at the same time an ordinary practising physician.

In most counties *County Medical Officers* (Fylkeslæger) superintend the public health system in the county, act as intermediaries between the district medical officers and the director of the central Board of Health, and advise the county governors, of whom, however, they are independent.

In each district there is also a *Health Council* (Helsæraadet), of which the medical officer is chairman. In the towns the health council includes the magistrate, the municipal engineer, and three members elected by the municipal council, while in the country it includes the whole or part of the district council.

The health councils are required to attend to the general sanitary conditions of the town or district, with special reference to stagnant water, urinals, dung-heaps, drinking water, the handling of food, lighting and air in dwelling-houses, dampness, overcrowding, ventilation of churches, schools, etc. They are also empowered to issue instructions in their district regarding all matters connected with health.

The expenses of the health councils are met by a precept on the local district or town council.

Counties and large towns have one or more municipal hospitals. There are five State asylums for the insane and a number of municipal asylums.

EDUCATION.—For elementary education the whole country is divided into 740 school communes or districts, sixty-three of which are towns. The system is national, and the expenses are borne centrally. For the purposes of school management there must be in every district and town a *School Council* (*Skolestyre*) consisting of one clergyman, together with representatives of the town or district council.

Although some secondary schools, particularly in the large towns, are conducted directly by the State, the tendency is for all such schools to pass into the hands of local councils.

HIGHWAYS.—Expenditure on local roads is borne by the municipality, but must be authorised by the fylkesmand. The county or the central Government may grant contributions. The cost of highways of a more important character is, as a rule, defrayed by the Treasury, in conjunction with the county or counties concerned, a small proportion in certain cases being leviable on the municipalities directly interested.

PUBLIC ASSISTANCE.—*Poor Law Boards* are appointed by the municipalities, who are at present responsible for their expenses, but it is expected that a law will be passed providing for State grants for this purpose.

POLICE.—The police force is under the control of a central official, but the greater part of its cost is borne by the local authorities.

#### CONCLUSION

The Norwegian system is a very simple one, the district and town councils, independent of one another, having wide powers and dealing with by far the greater part of local administration. The county councils are

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indirectly elected, they meet only once a year, and their functions are few. The proceedings of the town and district councils are, however, very definitely under the control of the county governor (fylkesmand), and the power which this permanent state official can exercise over local government is a striking feature of the system.

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## CHAPTER X

### GERMANY

#### A. GENERAL SURVEY

THE various states which constitute the German Reich have each their own system of local government, but certain basic principles were, up to the establishment of the Republic, common to all. These will be briefly described in this Section, which will be followed by sections dealing with some of the details and more recent developments in certain of the individual states.

The modern system of communal self-government in Germany was inaugurated by the Stein reforms in Prussia at the commencement of the nineteenth century, followed by the so-called Gneist reforms of the 'seventies.

The example of Prussia was largely followed by the other states, though in some cases after an interval of a number of years. The Napoleonic *régime* and the French revolutions of 1830 and 1848 greatly influenced developments in local self-government, while the position prior to the Great War may be said to have been finally established by Municipal Ordinances (*Städteordnungen*) or other forms of legislation of the year 1870 or thereabouts for most of the states.

The republican constitution of 1919 has not affected the power of the states to regulate their own systems of local government further than by ordaining that "local communities and their unions have the right of self-government within the limits of the laws," and that "the whole of the educational system is under the supervision of the State, which can associate the communes in the work," but as a result of that constitution each state has found it necessary to introduce a new local government

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Bill. The fact that in several cases these Bills are still under consideration, together with the questionable stability of the present system of government in Germany generally, and especially the uncertainty of the financial situation and hence of the financial relations between the local authorities, the State governments and the Reich, render it impossible to do more than give some account of the general principles which do not appear likely to suffer any radical change.

There are in Germany two distinct systems of local government existing side by side, namely (1) the local administration of State functions by officers and bodies directly responsible to the State, and (2) the self-government of the communes and other elected local authorities. Each of these systems has its own territorial divisions, which sometimes coincide and sometimes do not.

A great change in the local government electorate was made in 1919 by the abolition, where it then existed, of the "three-class" system of voting, under which voters were placed according to their income in three classes, each of which elected the same number of councillors. Universal suffrage is now general throughout Germany, the qualifying age varying from twenty to twenty-five. The latter age is usually a necessary qualification for membership of a local council.

### LOCAL SELF-GOVERNING AUTHORITIES

The *Commune* (Gemeinde) is the unit of local self-government, and is either rural (Landgemeinde) or urban, the urban commune or town (Stadt) having much greater autonomy and a more elaborate organisation than the rural.

In some states there still exist *Manorial Estates* (Gutsbezirke). They are an historic survival from the patrimonial estate of early times based upon feudal principles, and in them the Lord of the Manor (Gutsbesitzer) exercises all the powers of a communal authority.

The local self-governing unit next above the commune is usually known as the *Circle* (Kreis). Towns above a certain population are independent of the circle (Kreisfrei), and are sometimes known as *Town Circles* (Stadtkreise).

Above the circle, and including both town and rural circles, is the *Province* (Provinz).

In most of the states each local self-governing authority has both a representative and an executive organ, the former being a directly elected council. These bodies have power to pass resolutions in relation to policy and finance, and also to elect the executive, namely, the *Headman* (Vorsteher) in the case of a rural commune, the *Burgomaster* or "*Magistrat*" (a board appointed by the town council) in the case of a town, and the appropriate *Committee* (Ausschuss) for the other authorities. The executive, whether an individual or a committee, is mainly professional in character, and is usually appointed for a longer period than the appointing council itself, of which it is largely independent.

The German burgomaster has always held a very commanding position. His usual term of office is twelve years, with a possible re-election for life. He is a salaried professional official, who directs and superintends the whole business of the urban administration and has been well described as "a microcosm of the entire administrative life and activity of the town." \*

The communal authorities are, by law, free to take any action which they consider desirable in the interests of the community, provided that they do not trench upon functions which are specifically allotted to some other authority, and subject to the requirement, in most cases, that the approval of the circle or district authority must be obtained.

While this gives these authorities extensive powers, it is to be noted on the other hand that all matters of a "police" nature (which bears a very wide interpretation) are reserved for the local State administration and, further,

\* W. H. Dawson. "Municipal Life and Government in Germany."

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that the actual exercise of these powers is in the hands of the professional executives (Headman, Burgomaster, Magistrat or Ausschuss, as the case may be), and not of the elected councils.

Besides their original powers, which are both obligatory and voluntary, the communes carry out certain delegated functions and in that capacity act as instruments of the state.

The powers and duties of local self-governing bodies of a higher degree than the communes are enumerated by law, so as not to conflict with the residuary powers of the communal authorities. These also include both obligatory and optional functions, but seldom duties delegated from the state.

### LOCAL STATE ADMINISTRATION

Side by side with this organisation of self-governing authorities is that of the local State administration, though in some cases the same person or body acts in both capacities. The Prussian system, which is the most elaborate, is described in the next Section.

The authorities for this side of local government are all State officials, but are sometimes assisted by non-professional committees. They are responsible, as a rule, for all branches of "police" (including public safety and order, the enforcement of sanitary and building laws, preventive measures against epidemics and the adulteration of foods and drugs), they exercise supervision over the self-governing bodies, and they act as administrative tribunals.

### CONTROL

The State control over the self-governing bodies may, therefore, be exercised by two or three grades of supervisory authorities, in addition to the Ministry of State itself. The new proposals of the Prussian Government lay stress upon the point that State control is to be reduced

to the minimum and is to be confined to cases where the interests of the local community or the general welfare unquestionably demand it. There is some indication that the general desire for the abolition of one or other of the intermediate authorities may be met, but great importance is still attached to the approval by the State of the appointment of local officials.

In addition to this and to the general supervision to ensure that the proceedings of the local authorities are in accordance with the law, it is usually the case that certain resolutions, such as those relating to the publication of by-laws, the raising of a loan or the alienation of communal property, must be submitted to the superior authority for approval, before they become effective. In some states the Government can dissolve a communal council.

#### FINANCE

The revenues of the communes have normally consisted of :—

- (a) income from municipal property, especially land, forests and hunting rights ;
- (b) charges for municipal services and profits on municipal enterprises ;
- (c) additions to Government taxes ;
- (d) grants from the central exchequer in respect of police administration, poor relief, education, etc. ;
- (e) local taxes on dogs, entertainments, visitors, etc.

The circles also receive grants from the Government and derive revenue from their own property. They are in some cases empowered to levy rates and charges and to add supplements to direct taxes. The provinces obtain their revenue partly from contributions from the central exchequer and partly through levies on the circles.

In the matter of finance, however, the revolution in Germany has fundamentally altered the relations of the Reich, the states and the local authorities. Formerly, the Empire obtained its revenues by indirect taxes and by



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contributions from the states, leaving to the latter and to the local authorities the direct taxes on income, land and personal property. The position as between state government and communes varied. In Prussia the state reserved to itself the income and property taxes and allowed the communes to levy taxes on land, houses and business profits and also to make additions, for local purposes, to the income tax. In Bavaria and other south German states, the state retained income, land, house and profits taxes, but allowed the communes to make local additions to them.

The legislation of 1919 completely reversed this system. The new imperial constitution drawn up at Weimar in August, 1919, gave the Imperial Government the right to frame all legislation with regard to taxation intended either wholly or partly for imperial objects. The State Taxation Law of the following year empowered the Imperial Government to lay down the lines upon which State taxes should be levied, so far as necessary to protect the revenues of the Empire, and to prevent double taxation, the only limitation to this power being that the Imperial Government must take into consideration the question of the maintenance of the solvency of the states. Further, the state and local authorities were deprived of the right to levy income tax, and additions to the imperial income tax might be levied only with the consent of the Imperial Government, whilst some of the direct taxes, the produce of which was transferred to the local authorities as a part of the taxation reforms of 1893, must in future be given up to the Empire. The states, however, and through them the communes, receive a portion of the produce of the imperial income and corporation taxes, as well as a portion of the new imperial turnover tax. The land, house and industrial taxes were expressly reserved to the states and communes.

Municipalities are allowed to levy an increment value duty and considerable excise duties on drinks and to make additions to the rent tax. Communes are required

to levy an entertainments tax and may<sup>1</sup>levy a luxury tax on large houses—large, that is, in comparison with the number of inmates.

#### VARIETIES OF TOWN CONSTITUTIONS

Whereas the foregoing statement describes the normal principles of local government in Germany, some of the states, especially in their more recent legislation relating to towns, have departed from those principles to an appreciable extent. A review of the systems of town government in force in the different states at the end of the year 1924 (including the draft town constitution of Prussia) shows that they might be classified in six groups, of which the main characteristics are as follows:—

*Group I.*—Two bodies both having the power to pass resolutions, the smaller (executive) having the greater control, and being presided over by the burgomaster ("Magistrat" system of Prussia and Hesse).

*Group II.*—Two bodies, both having power to pass resolutions and both presided over by the burgomaster, the larger having the greater control (Baden).

*Group III.*—Two bodies, but only one having power to pass resolutions, the other being purely executive (Mecklenburg-Schwerin, Oldenburg and certain towns in Saxony).

*Group IV.*—One body, with power to pass resolutions, presided over by the burgomaster, the latter being the executive with wide powers, ("Burgomaster" system of Prussia and Hesse, and Anhalt).

*Group V.*—One body with all powers concentrated in itself, the burgomaster presiding (Bavaria and Württemberg).

*Group VI.*—One body with elected chairman, the burgomaster being merely the executive organ (Saxony and Thüringen).

The more outstanding features of these different

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systems will be explained in the subsequent sections of this chapter.

### B. PRUSSIA

At the time of writing, the new local government ordinances have not passed through the Landtag, and it is impossible to say for certain what will be their final form. The following statement is therefore based upon the pre-war system, as modified by the proposals now before the Landtag, and may not be completely accurate when the ordinances have been passed.

#### AREAS OF LOCAL GOVERNMENT

Under the constitution of 1919, Prussia is divided into fourteen *Provinces*, but this number includes Greater Berlin (which is also a municipality) and Hohenzollern Land, a small area measuring only 446 square miles, which is treated as a separate province on account of its being separated by other states from the rest of Prussia. Of the remaining twelve provinces, the area varies from 3,000 to over 15,000 square miles, and the population from 327,000 to nearly 6,000,000.

Each province is subdivided into *Government Districts*, which vary considerably in area and population, the smallest area being 1,153 square miles, and the largest over 7,500 square miles.

Government districts are again sub-divided into *Circles*. In 1921 there were 430 circles in Prussia, having an area for the most part of between 80 and 500 square miles, although a few exceeded 800 square miles. The population of the circles varied between very wide limits—10,000 and 200,000, the average being 50,000 to 60,000.

There were in 1921 106 municipalities independent of the circle authorities. The limit of population for this independence under the pre-war *régime* was 25,000 in East Prussia, 30,000 in Westphalia, and 40,000 in the Rhineland. The number of town communes, included

for administrative purposes within the circles, was 1,102. The majority of these had populations ranging between 2,000 and 20,000, but thirty-seven had less than 100. The number of rural communes at the same date was 30,232. Of these more than two-thirds had less than 500 inhabitants, but a few had 20,000 inhabitants and over. The number of manorial estates was 12,257. The majority (12,036) had less than 500 inhabitants, but fourteen had 2,000 inhabitants or more.

#### LOCAL STATE AUTHORITIES

The *Landrat* and *Circle Committee* (Kreis Ausschuss) (see below, p. 112) are the lowest grade of State authorities and the administrative court of first instance, in addition to being the executive of the circle. The *Government District* (Regierungs-Bezirk) covers a number of circles. At its head is the *Government President* (Regierungs-Präsident), a professional official appointed by the central Government, who presides over the *Government Board* (Regierung), which consists entirely of professional officials, and the *District Committee* (Bezirksausschuss), which includes four unofficial members, appointed for six years by the provincial committee. The district committee, besides being an administrative court, controls to some extent the police administration, for which the Government President is mainly responsible.

Above the government district is the provincial organisation, which includes the *Chief President* (Oberpräsident) as its head, who occupies a position similar to, but even more important than, that of the French prefect; the *Provincial Council* (Provinzialrath), composed of one high professional official and five lay members appointed by the provincial committee, usually for six years; and the *Provincial Committee* (Provinzialausschuss), whose members are elected by the provincial assembly for six years.

These various authorities, so far as they are adminis-

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trative tribunals, are subordinate to the *Supreme Administrative Court* (Oberverwaltungsgericht) ; in other respects they (and the self-governing bodies) are subject to the various Ministries of State, especially the Ministry of the Interior.

### THE RURAL COMMUNE

The self-governing body of a rural commune in Prussia is a *Council* (Gemeinde-vertretung) consisting of not less than six members, elected for four years, but, if the commune contains less than forty electors, it will not have a council except by special resolution ; otherwise it is administered by a *General Assembly* of electors (Gemeinde-versammlung).

The assembly or council of each commune elects a *Headman* (Gemeindevorsteher) for four years, who is their executive, unpaid. They also appoint from among qualified electors from one to six assistants (Schoffen), also for four years and unpaid, except that, in a commune where the headman is at the same time Landbürgermeister, the Schoffen may be appointed for twelve years and paid.

The powers of the communal councils in rural communes are connected chiefly with street cleaning, repair of minor roads, drainage, poor relief, protection against fire and, sometimes, education.

A rural commune can, as a rule, become a town when it is of a predominantly urban character and contains more than 10,000 inhabitants, but very many existing towns have a much smaller population.

### UNIONS OF RURAL COMMUNES

The system of unions of communes, called *Landbürgermeistereien* or *Aemter*, which has been in existence for some time in the western parts of Prussia, may now be extended to the whole state. Its object is, without

destroying communal independence, to provide administrative areas large enough to undertake functions of which the smaller and poorer communes are incapable. They may, therefore, be described as unions of rural communes, except where a commune is large enough to be made a *Landbürgermeisterei* in itself.

If the ordinance passes as proposed, every rural commune will be obliged to be or to belong to a *Landbürgermeisterei*, but it seems probable that the system will be made voluntary in the first instance. For each union a council of not less than twelve members is directly elected. The chairman and executive of the council is the *Landbürgermeister*, who is directly elected for twelve years and receives a salary.

#### THE TOWN

The *Town Council* (*Stadtverordnetenversammlung*) of a Prussian town must consist (under the proposed new ordinance) of at least eleven members, and may be increased according to population up to a maximum of ninety-nine. The members are elected for four years.

Two distinct types of town constitution are recognised, in one of which the burgomaster alone, and in the other a body known as the *Magistrat*, is the executive of the town council. In the former case the burgomaster presides over the town council; in the latter he presides over the magistrat only, and the town council elect one of their number as chairman.

The magistrat consists of both paid and unpaid members, the former being officials. The burgomaster and the paid members of the magistrat are appointed by the town council for twelve years, the unpaid members of the magistrat after each council election. The number of members of the magistrat varies from two to thirty or forty, being fixed in each case by a local Act, but at least one-third of the number must be unpaid.

The Prussian municipalities have always made great use of their general powers. Public services are very

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largely municipalised and many towns own considerable areas of the land on which they are built.

### THE CIRCLE

The representative body of the circle is a *Council* (Kreistag) directly elected for four years, the constituencies for this purpose being, under the proposed new ordinances, the towns which are not circle-free and the Landbürgermeistereien, or, where these have not been established, the rural communes. The number of members is to be twenty in circles having a population not greater than 30,000, and, above that figure, one is to be added for every 5,000 inhabitants up to 50,000, and one for every 10,000 inhabitants above 50,000.

The chairman is the *Landrat*, who is appointed by the state government, and who also presides over the *Circle Committee* (Kreisausschuss), which consists of six members and is the executive of the circle.

In the memorandum accompanying the projects of the new Circle Ordinance for Prussia, the principle of the Prussian system of local self-government from the point of view of functions is stated to be that every local authority is authorised to exercise such functions as are needed for the moral and economic interests of the community it represents. Thus, the sphere of activities of the circle begins where that of the commune ends, and ends where that of the province begins.

The actual functions with which many circle authorities have dealt in recent years include housing schemes on broad lines (das Siedlungswesen), higher professional education, especially in connection with agriculture, libraries, theatres and cinema halls, hospitals, orphanages and homes of various kinds, light railways and tramways, trading concerns such as water, gas and electricity works, saw-mills, quarries, printing works, warehouses and banks.

The new local government proposals in Prussia, if

carried into effect, will substantially increase the status and powers of the circle authorities, and it is expressly stated that, on any alteration of boundaries, the question of the possible weakening of the administrative capacity of the circle must be carefully examined.

It is proposed that the attainment by a town of a certain figure of population shall no longer, as in the past, be held to constitute a claim for exclusion from the circle, but only as showing a *prima facie* case, which would need to be supported by proof that the town was capable of carrying on an independent administration and that its severance from the circle would be for the common good. The figure is proposed to be fixed at 30,000 for Prussia generally, but 40,000 in the Rhine province, unless the province otherwise decide. On the other hand, in sparsely populated provinces, a town which showed itself fit for independence might in exceptional cases be granted that privilege even though its population were less than 30,000.

#### THE PROVINCE

The local self-governing activities of the provinces are not extensive. The *Provincial Assembly* (Provinziallandtag) consists of representatives appointed for five years by the circles in proportion to their population. Each provincial assembly elects a *Committee* (Provinzialausschuss) for six years and also a *Landesdirektor*, who is the real executive and holds office for six to twelve years.

The chief functions of the provincial assembly are connected with social welfare and the maintenance of provincial roads, but it may also establish light railways and institutions of various kinds, and may promote agricultural improvements and agricultural education.

#### ZWECKVERBÄNDE

In addition to the local governing bodies already mentioned, the Prussian law recognises "*ad hoc* unions" (Zweckverbände), which may be formed for special

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purposes by the combination of town communes, rural communes, Landbürgermeistereien or circles. The object of such combinations is to carry out in co-operation some specific local government function for which each of the constituent local authorities would otherwise be individually responsible. Little, however, has up to the present been accomplished by such bodies, except in the case of the very efficient Ruhrkohlsiedlungsverband, which is dealing with the town-planning and general development of the whole region of the Ruhr.

### BERLIN

The administrative system of Berlin has been altered several times in recent years. In 1915 a law was passed setting up a special Federation (Zweckverband), which included Berlin and its suburbs and two large rural circles, covering an area of about 1,400 square miles. This Federation, however, was found to be too limited in the scope of functions which it could undertake, and in 1920 a law was passed which abolished the Federation and provided for the incorporation with Berlin of ninety-four local authorities, consisting of eight town communes, fifty-nine rural communes and twenty-seven manorial estates. With these additions the whole area of Greater Berlin now covers approximately 320 square miles, the total population being about four million.

Under the Act of 1920, the local government functions of Greater Berlin are administered by a *Town Council* (Stadtverordnetenversammlung) consisting of 225 members, who are elected by direct adult suffrage for a period of four years. This council appoints an executive (Magistrat) of not more than thirty members, of whom some are paid and others (at least twelve in number) unpaid, the former holding office for twelve and the latter for four years.

The whole area of Greater Berlin is divided into 20 *Districts* (Bezirke), in each of which there is a district

council\* consisting of the local representatives on the central town council as well as from 15 to 45 directly elected members (Bezirksverordneten). Each district council appoints a district executive (Bezirksamt) of seven members. The district councils have independent rights of supervision over such municipal establishments and institutions as are intended for the benefit of the district. They may make suggestions regarding the municipal budget in so far as it affects the districts and they have also general powers of local administration, the central town council being concerned only in laying down the lines on which the district councils are to work and in seeing that the administration is properly carried out. The most complete decentralisation of function has taken place in regard to education.

It appears, however, that this latest constitution for Berlin is not considered satisfactory, and the line which should be followed in respect of further reforms is a matter of acute controversy.

#### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—The administration of public health from the "police" aspect is under the jurisdiction of the local state authorities in the provinces, government districts and circles. The town councils are public health authorities in the sense of carrying out sewage works, establishing hospitals, maintaining parks and open spaces, and so forth. Where the population of a commune exceeds 5,000, the communal authorities must appoint committees for the purpose of assisting in the administration of the public health laws. In smaller communes the appointment of such a committee is optional.

**HIGHWAYS.**—Provinces, circles and communes are all concerned with the construction and maintenance of roads of different types. Before the war considerable grants were given from the central exchequer towards the increase and improvement of provincial roads.

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**EDUCATION.**—The provincial chief president, with the assistance of a special board, has charge of all branches of secondary education, the district authorities are responsible for elementary education. The education authorities are therefore organs of the central Government, but local school committees, on which members of the communal councils serve, together with officials and other persons, exercise immediate supervision over the schools.

**POOR RELIEF.**—The relief of the poor is organised through combinations of local authorities for the provinces and for smaller areas, the local administration being carried out by a committee of the communal council, which usually includes co-opted persons. Town councils may provide or assist workhouses, hospitals and orphanages, and may adopt any methods which they consider suitable for the purpose.

**POLICE.**—The district president controls the police administration of his district ; his powers are to a certain extent limited by the district committee, to whose approval he is bound to submit any police ordinance which he may wish to promulgate. Within the circle, and subordinate to the district president, the Landrat is the responsible official. In rural communes the Headman is chief of the local police under the direction of the Amtsvorsteher, but with the establishment of Landbürgermeistereien, those bodies would become the local police authorities for their districts. In the smaller towns the police authority is usually municipal, *i.e.*, the burgo-master, as head of the police, acts as the representative of the state. The large towns, as a rule, have a separate state police organisation, the *personnel* of which is directly appointed by the Government.

Where the administration of the police is in local hands, the communes pay the whole cost of administration. Where the administration is wholly or in part in the hands of state officials, the state is liable for two-thirds of the cost, and the commune for the remainder.

## C. SAXONY\*

A new communal constitution for Saxony came into force on April 1st, 1924, but important modification, which tends to increase the control by the bureaucracy, were introduced into it by an amending ordinance of March, 1925.

## AREAS OF LOCAL GOVERNMENT

For State administrative purposes Saxony is divided into five *Administrative Circles* (Kreishauptmannschaften) the largest of which (that of Dresden) has an area of 1,652 square miles, and the smallest, Chemnitz, an area of 788 square miles. These divisions are subdivided into twenty-nine smaller areas (Amtshauptmannschaften).

For local self-government purposes the *District Union* (Bezirksverband), which corresponds to the circle in Prussia, coincides in area with the administrative circle.

There are five *Circle-free Towns*, the smallest of which has a population of 74,000, and about 3,000 *Communes*.

## THE COMMUNE

In communes resolutions directing the policy can be passed only by the *Communal Council* (Gemeindeverordneten), which is a corporate body consisting of a number of members varying between seven and seventy-five, who are elected on the system of proportional representation by secret ballot every three years. Every citizen of the commune, male or female, over twenty years of age has a vote.

The communal council elects the *Communal Executive* (Gemeinderat), which conducts the current business of the commune and, where the matter comes within the scope of self-government, prepares and carries out the necessary measures. The executive is, as a rule, the only competent authority as regards matters of State adminis-

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tration. In principle, the burgomaster alone constitutes the communal executive, but additional members may be appointed, both professional and unprofessional.

Any German, without distinction of sex, who is twenty years of age, and who either resides in the commune or has a residence or an habitual abode therein, and has been a citizen of the Reich for at least one year, may be elected as a communal representative. Similar qualifications, except that the age must be twenty-five years, are required for election as mayor or member of the communal executive. Professional members of the communal executive are not required to conform to the conditions regarding residence. The mayor and the professional members of the communal executive are elected every six years, other members every three years, by the communal council. Members may be re-elected for a maximum period of twelve years.

State legislation does not prescribe any special qualifications for the posts of mayor or professional members of the communal executive, but in certain of the larger communes, if no member of the communal executive is qualified to fill the office of magistrate or to discharge higher administrative duties, at least one official qualified to perform these duties must be appointed. The approval of the state authority is not required to the appointment of communal representatives or of members of the communal executive. The state authority may challenge the election of the mayor or of the deputy mayor responsible for the management of the police, where either of these persons is deemed not to be eligible or where "it can be proved that he has committed actions which would appear to render him unsuitable to hold a public post."

"Communes have the right and the duty, within the sphere of administration of their own business, to pass all measures which appear necessary for the promotion of the economic and intellectual development of the individual and the welfare of their members." They are also bound to administer affairs of the Reich, the state

and other legally constituted public bodies which have been transferred to them by law (transferred business) according to the direction of the competent authorities.

Small communes administer only a certain number of state functions, the Amtshauptmannschaft being, as a rule, primarily responsible. The state functions assigned to the smaller communes are chiefly care for the safety of the individual and of property, the maintenance of law and order, construction of roads, some duties of the health police, public decency police, care of the destitute, workers' police, fire police and industrial police, so far as these are not matters of self-government.

Any person, whose individual rights are interfered with by any action of a local authority, may appeal to the supervisory authorities and, where the appeal is not successful on the legal point, he may make a further appeal to a higher administrative court. In addition, the decision on a complaint regarding purely supervisory action rests with the state supervisory authorities, up to and including the central Ministry.

#### CHANGES IN AREA OR STATUS

Petitions for alterations in the area or status of a commune may be made to the Ministry of the Interior through the supervisory authorities. In some cases the latter, in co-operation with the advisory committee, may decide. If the proposal is for a complete recasting of communes or for the union of part of one commune with another, and a tenth of the citizens object, a referendum must take place, and if the majority are against the proposal, no action may be taken until the next full election of communal representatives. In the case of a proposal that a commune with less than 20,000 inhabitants shall become free of the district, the Ministry of the Interior must inquire into the economic solvency of the commune and also ascertain that the solvency of the district union will not be imperilled by the loss of the commune.

### ' THE DISTRICT

The *District Council* (Bezirkstag), which corresponds to the communal council of a commune, is elected by the communal representatives of the district union. The council elects the *District Committee* (Bezirksausschuss) which, as regards its sphere of duties, corresponds to the communal executive.

The president of the district committee is the Amtshauptmann, appointed by the Government. The district authorities may put forward names for the post of Amtshauptmann when a vacancy occurs and they have the right to present a petition to the Government for the removal of the holder, but not more often than once in every six years. The Amtshauptmann therefore holds the double position of state official and of president of a self-governing body of a higher order. The district committee acts as supervisory authority over communes belonging to the district where instructions are issued to the communes regarding any particular question.

The self-governing powers of district authorities are specifically laid down by law so as to prevent competition with communal self-government. The functions assigned to these bodies are those which can be efficiently discharged only by larger authorities. They are divided into (a) compulsory (welfare work, care of the sick, infirm and mentally diseased, allocation of financial liability for construction of roads and public assistance), and (b) optional (organisations for the care of the poor or the sick, the promotion of public health, the construction of roads, higher and technical education, establishment of savings banks, financial help for necessitous communes, support or establishment of transport concerns).

District unions as such do not discharge state business (transferred duties). In such matters the Amtshauptmannschaften as purely state authorities are the only competent authorities for districts.

## FINANCE

Formerly communes covered their expenditure in the main from the communal income tax, the communal land tax and the profits of public enterprises. At present communes are dependent on the final distribution of the main Reich taxes (income tax and turnover tax), grants towards salaries given by the Reich and some smaller taxes (on alcohol, lodgings, amusements, buildings, etc.). In principle, district unions are dependent on the taxes raised in the communes of the district, but the question of giving them a share in the principal Reich taxes is under consideration.

The auditing of accounts, apart from the control by the communal assembly, is confined in the main to a general supervision exercised by the state authorities.

## COMMITTEES

Communes and district unions may pass by-laws or resolutions setting up committees for any purpose. The power of initial and even final decision may be delegated to the committee. The committee must be composed only of members of the body which sets it up or—in the case of joint committees—of members of both bodies and citizens. Joint committees act under the jurisdiction of the communal executive. The powers of a communal committee may be locally limited in the sense that it is concerned only with matters relating to a specific area. Any citizen of a commune who has a vote (is over twenty years of age) may be chosen as member of a joint committee. Members are elected by the communal representatives. Each committee elects its own president.

It should also be mentioned that the citizens have the power either to entrust the management of their affairs to their communal representatives (the communal council) or to have recourse to the referendum.



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### UNIONS OF COMMUNES

Joint action by local authorities may be effected by the formation by the authorities of unions for special purposes. Communes may, for the purpose of carrying out definite functions, which come within the sphere of communal activities, combine to form such unions. Unions are brought into existence by means of an agreed memorandum of association. The memorandum must be submitted to the supervisory authorities and may be challenged in formal proceedings.

### CONTROL

Control of self-governing bodies is exercised by state authorities (Amtshauptmannschaft and Kreishauptmannschaft), which are elected unprofessional bodies under the chairmanship of a state official. Control is said to be exercised only so far as is necessary to secure that self-governing bodies observe the laws of the Reich and of the state and do not wilfully neglect their duties, but it would appear that the amendments of 1925 are calculated to increase the powers of the state officials in practice, if not in form.

The methods of control include the right to require information, the giving of directions, the taking of action in default and the compulsory inclusion of items in the budget, and also, as regards the transferred functions, the infliction of penalties. The control as regards the functions performed on behalf of the state is more far-reaching than in the case of matters within the sphere of self-government.

Local by-laws, that is to say, formal communal resolutions affecting the constitution or raising questions of principle, which would have a lasting effect on the communal budget, must be submitted to the state authorities before promulgation. The state authorities may oppose the resolutions formally after consultation with the elected committee.

the commune may appeal against unfavourable decisions to the *Communal Chamber*, which is composed of a chairman appointed by the Ministry of the Interior and ten representatives chosen by the Landtag (the State Parliament) from among the members of the communal executives and representatives. The Ministry of the Interior has the right to cancel decisions of the communal chamber and to form its own decision.

Similar procedure is followed in respect of other orders of the supervisory authorities, and in respect of financial control. The latter is, apart from the general right of supervision, mainly concerned with the security of communal property and with long-dated loans. Annual estimates must be made and accounts be kept ; but as a rule these need not be submitted to the supervisory authorities.

The general supervisory power of the Ministry consists in formulating, within the limits determined by the Constitution, the necessary general regulations for the carrying out of laws. In certain exceptional cases, where the performance of local duties is imperilled, the supervisory authority may provide for the carrying on of the administration by a commissioner.

## D. W Ü R T E M B E R G

### LOCAL STATE ADMINISTRATION

In Würtemberg the local State authorities are the Sixty-three *Oberämter*.

### THE COMMUNE

For the purposes of local self-government Würtemberg is divided into 890 *Communal Administrative Districts* ; in accordance with the Würtemberg Communal Order they are grouped as follows :—

“ Large towns ” (more than 50,000 inhabitants).

“ Medium towns ” (more than 10,000 inhabitants).

“ Small towns ” and “ country communes.”

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Small towns and country communes are subdivided into three classes :—

- (1) From 4,000 to 10,000 inhabitants.
- (2) From 1,000 to 4,000 inhabitants.
- (3) Less than 1,000 inhabitants.

As regards the proportion of population to area there is great diversity between the different communal districts. Of the fifty-two communes having 5,000 inhabitants and over, the smallest covers an area of 1,408 acres and the largest 54 square miles. These variations in population and area make no essential difference to the powers of the local administrative authorities or to the assessment for local taxes. With a few trivial variations the local government law is uniform in principle for all communes.

Changes in the area of communes which do not involve an increase or decrease of the total number of communes are, as a rule, settled by agreement between the communes concerned. The inhabitants or taxpayers in these communes cannot prevent such a change taking place, but opportunity is given to them to express their opinion beforehand and to put forward statements on behalf of their interests. The change requires the approval of the supervisory authorities.

The amalgamation of several independent communes into one commune, as well as the creation of new independent communes out of parts of existing communes, requires the consent of all the communes concerned ; such amalgamation requires also the authorisation of the Ministry of the interior. Where a change in a communal area involves a change in the lower state administrative district, legislation is necessary.

The *Communal Council* (*Gemeinderat*) is a corporate body of six to seventy-two members, according to population. In some cases the number of members, which must be divisible by two, is determined by a communal by-law.

Any German over twenty-five years of age, without distinction of sex, who has lived within the communal

area for six months, and whose electoral franchise has not been suspended, is eligible for membership of the communal council and may be chosen as headman of a commune.

• While the headman is chosen for ten years and must then submit to re-election by all the citizens of the commune who are entitled to vote, the communal council is elected for six years, one half retiring every three years. The retiring members are eligible for re-election.

In communes with a population over 1,000 a communal regulation may authorise the formation of *Divisions*, each consisting of at least five members, to act in the place of the communal council as regards any matter falling within the sphere of its obligatory functions. Persons who are not members of the communal council may not be appointed as members of a division.

Committees of the communal council may be appointed in all communes for the preliminary consideration of the business of the council. These committees may be either temporary committees appointed to deal with a specific matter or standing committees dealing with a definite branch of business.

In towns of over 10,000 inhabitants commissions may be formed of members of the council and of other (co-opted) persons. These commissions, which are intended to facilitate the business of the council, prepare resolutions and carry out the decisions of the communal council in regard to a particular subject. Their organisation and activity are determined in detail by a communal regulation. The chairman of each commission must be a member of the communal council. The communal council or the competent state supervisory authorities exercise supervision over the activities of the divisions, committees and commissions.

The obligatory functions of the communes relate to the administration of communal property, the police, the care of the poor, education, taxation, the maintenance of roads and social insurance.

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Other powers which are left to the discretion of the local authorities include baths, tramways, higher education, theatres, savings banks and the provision of gas and electricity.

The care of public health comes within the powers of the communes which they are free to exercise at their discretion, but they may be compelled to take measures in certain circumstances.

The local police organisation is placed in the hands of the commune by law, but in towns of over 10,000 inhabitants the highest branch (safety and criminal police) is reserved to state police officials. With this exception the local police power is in the hands of the headman. The communal council decides on police regulations which are to be permanently enforced, on the establishment of permanent police services or institutions; on all police measures which entail expenditure by the commune and on such police functions as are allotted to the council by statute, *e.g.*, in connection with the regulation of building or industry.

### FINANCE

The expenses of communes are met from the following sources :—

- (1) The revenues from communal property and from communal trading undertakings.
- (2) Contributions and charges paid by the inhabitants towards the provision and maintenance of communal institutions, public health and other services. Contributions are paid by owners of land and buildings and by industrialists who derive economic advantage from the institutions and services of the commune; charges are paid by the users of such institutions and services.
- (3) Charges for an official duty, performed by a communal official and undertaken at the request and in the interests of an individual.

- (4) Share of state taxes.
  - (5) Additions to state taxes.
  - (6) Communal taxes which must be raised by statutory authority or can be raised with the assent of the central state authorities.
  - (7) Reich and state grants towards certain classes of expenditure.
- In so far as the proceeds from Nos. (1) to (7) do not suffice to defray the expenditure :—
- (8) A tax to meet the deficit, which may be levied upon occupiers of land and buildings and industrialists in proportion to their contributions to the state land, building and industrial taxes.
  - (9) Loans ; but these must not be used to meet current expenditure.

#### CONTROL

Every communal administration comes under state supervision ; the supervisory authorities are empowered to examine, on the application of an individual, any order or decision of the communal authority. In addition, certain decisions of the communal council require the ratification of the supervisory authorities. These include decisions on such matters as an increase in the indebtedness of the commune, the sale or mortgage of landed property and similar transactions, the burdening of the commune with new permanent liabilities, such as the establishment of savings banks, gifts to charitable institutions, the distribution of communal property among the citizens of the commune, the introduction of taxation, the imposition of charges and fees for communal services, and the issue of bearer bonds.

Another form of state supervision is the approval of the appointment or re-appointment of headman.

The supervision of the state over communal administration is limited to ensuring that :—

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- (1) the existing legal powers of the commune are not exceeded.
- (2) the public obligations of the commune as prescribed by law are fulfilled ;
- (3) the legal procedure for the conduct of the business of communal administration is observed.

The state supervisory authorities are, for example, in a position to compel a communal authority to take any action prescribed by law or to act in place of another communal authority should the latter decline to carry out its duties.

In order to exercise state control, the competent state supervisory authorities are empowered to acquaint themselves with the proceedings of the communal authorities by the scrutiny of documents and inspection of accounts, and to demand all necessary information.

### ADMINISTRATIVE JURISDICTION

Appeals by individual persons against decisions and enactments of the communal authorities may be brought only if a statutory provision has been infringed to the detriment of the individual. In any question coming within the sphere of the police, the person whose rights have been infringed by an order or decision of the communal authorities has the right to appeal.

The courts are competent to decide such an appeal only in so far as the petition is for a decision of the court upon a sentence in a police matter given by a headman who is invested with police powers. The effect of the appeal for a decision of the court is to transfer a police matter to the jurisdiction of the ordinary penal court. In all other classes of cases the Oberämter are competent to receive appeals of this class, and in higher instance the Ministry of the Interior, according to the nature of the particular case. Under certain conditions, when the complaint on administrative grounds has been dealt with, an appeal on the legal aspect may be made to the Administrative Court.

## E. BAVARIA •

## LOCAL STATE ADMINISTRATION

For State administrative purposes, Bavaria is divided into eight *Government Circles* (Kreisregierungen) varying in size from 2,300 to 6,400 square miles ; these districts are subdivided into 163 smaller areas (Bezirksämter).

## LOCAL SELF-GOVERNMENT

Local self-government on modern lines may be said to have been established in Bavaria, to a limited extent, by an edict of the year 1818. This edict was somewhat amended in 1834, and in 1869 a new communal ordinance was passed, which governed the situation for fifty years.

In 1919 were passed both a new franchise law and a new local government law. The former gave the communal vote to both men and women at the age of twenty, who could prove Bavarian nationality and had resided in the commune for six months, but this period has been increased to twelve months by a subsequent Act.

For local self-government purposes the country is divided into eight *Circles* (Kreise), coinciding in area with the government circles, and having each its *Council* (Kreistag) and *Committee* (Kreisausschuss). The circle in Bavaria corresponds to the province in Prussia. These circles are divided into *Districts* (Bezirke), which correspond to the circles in Prussia, and have each their *District Council* (Bezirksrat) and *District Committee* (Bezirksausschuss). There are in all 7,968 communes, of which 7,783 have less than 3,000 inhabitants. Fifty-six towns are independent of the district, and therefore directly under the jurisdiction of the circle ; some of these towns are relatively small, having only about 14,000 inhabitants.

## THE COMMUNE

The Local Government Act of 1919 established the system of a single *Communal Council* (Stadtrat or Gemeinderat) with full powers, without any separate executive,

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and a *Burgomaster* directly elected by the people where the population of the commune is below 300, elsewhere by the council, the state control being at the same time materially diminished.

The members of a communal council are eligible for a period of ten years at the most, must be twenty-five years of age, and may number as many as fifty. Professional members are to be included, but with the power of voting only on matters relating to their particular subject.

### FINANCE

The local authorities in Bavaria do not possess the power to levy direct taxes on their own initiative, but can make additions to the state direct taxes on land, houses and businesses. The maximum of such additions permissible is 600 per cent. in the case of the land tax, and 400 per cent. in the case of the others. The communes can levy taxes on increment value, visitors, entertainments, dogs, and sale of liquor, and in various communes other local taxes are levied, which, however, often scarcely defray the cost of collection.

The following comparison between the proportion of different sources of revenue in large towns in Prussia and Bavaria in 1924 is of interest :—

	Prussian large towns.	Bavarian large towns.
	%	%
1. Profits on municipal undertakings . . . . .	11'0	21'3
2. Income and corporation tax . . . . .	24'2	15'3
3. Exchange tax . . . . .	6'7	5'1
4. Land and buildings tax . . . . .	17'1	10'5
5. House rent tax . . . . .	8'9	—
6. Business tax . . . . .	20'1	17'0
7. Other taxes . . . . .	12'0	12'6
8. Produce of communal property . . . . .	—	11'0
9. Surplus from previous year, etc. . . . .	—	7'0
	100'0	100'0

## F. BADEN

The communal ordinance of 1921 established a system of town government which differs in several respects from that of the other states.

Under this system a *Burghers' Committee* (Bürger-ausschuss) is elected for four years on the basis of proportional representation, the electoral qualification being twenty years of age and six months' residence in the locality. The age of twenty-five years is necessary for membership of the committee. The number of elected members (Stadtverordneten) is from twenty-four to eighty-four, according to the population, the latter figure applying to all towns having a population over 20,000. Besides the elected members, the burgomaster and deputy burgomasters and paid members of the town council have seats on the committee.

The *Town Council* (Stadtrat) consists of the burgomaster, deputy burgomasters, six to twenty-four honorary members, and a number of paid members. The paid members are appointed by the burghers' committee, the honorary members are elected by the Stadtverordneten on the principle of proportional representation. The term of office of all members of the council (paid or unpaid) is four years.

The *Burgomaster* is appointed by the burghers' committee for nine years. He presides over both the burghers' committee and the town council and over all sub-committees. He is responsible for preparing their resolutions and for general direction of the administration.

A peculiarity of the Baden system, which distinguishes it from those of other German states, is that most of the proceedings of the smaller body, the town council, need the approval of the larger body, the burghers' committee, and it rests with the latter to decide whether or not their approval is required in any particular case not specifically provided for in the constitution. The initiative may be taken by either the town council or the

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burghers' committee. Executive action is taken by the council, but, whereas it cannot take such action without the approval of the burghers' committee, it is not obliged to carry out any specific proposal, so approved, even though it has itself initiated it. If it does not do so, a reasoned statement must be presented to the burghers' committee.

Resolutions of the town council, before submission to the burghers' committee, are examined by a sub-committee of that body, known as the *Vorstand*, elected by the Stadtverordneten from among their own number and itself appointing from among its own members a chairman known as *Obmann des Vorstandes*.

### G. CONCLUSION

The German type of local government which prevailed during the nineteenth century was characterised, especially in the towns, by a considerable amount of liberty of action on the part of the local self-governing authorities, so far as their sphere extended, but from this sphere were excluded all matters which were held to be of a "police" nature, including, as already explained, a number of functions which in other countries are exercised by self-governing bodies. The actual exercise of these autonomous powers rested in the hands of semi-permanent paid officials, who were locally elected in the communes, subject to the approval of the superior authorities.

In spite of this fact, the interest of the general public in their own local government has always been maintained, and many of them are brought into co-operation with the executive authorities both on the communal councils and on various committees. The honour paid to local councillors and, generally, to the holders of official posts, whether paid or unpaid, is a marked German characteristic and is, no doubt, at the same time both a cause and a consequence of the civic pride in local institutions.

The new local government constitutions of the various

states do not generally show signs of any material departure from the accepted framework. The Bavarian law of 1919 definitely set aside the principle of separation of powers and adopted for the towns the one representative council, with no separate executive, much on the pattern of the English system. A very similar organisation already existed in Württemberg. As the German Städtetag (Union of Towns) has approved of the recognition of this system as a permissible form of city constitution, which should be included in a general town ordinance, it is possible that it may make its appearance elsewhere. On the other hand, there are already indications in Bavaria of a reactionary movement. The Baden constitution adopted in 1921 contains, as has been pointed out, features peculiar to itself.

Apart from these special cases, the most striking features of the moment are the declared intention of the Imperial Government to increase the powers and status of the authorities for the larger areas (circles and districts) at the expense of the other authorities and the complete reversal of the financial relations between Reich, state and local authorities which has been described.

The protests against these factors of imperial policy are most vigorous. The German Union of Towns, in September, 1924, passed resolutions to the effect that the communes should be permitted, as formerly, to make additions to the imperial income and corporation taxes ; that powers relating to public assistance, education, housing, administrative police, etc., should remain with the communes and not be transferred to the circles or any other authorities for larger areas ; that the government districts be retained, that the Regierungspräsident (the head of the government district) should be the supervising authority over all towns and that the Landrat (head of the circle) should have no jurisdiction in the matter ; and that the limit of population above which a town may become independent of the circle should be substantially lowered.

The German Association of Rural Communes, in

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November, 1924, passed a unanimous resolution in favour of a restoration of the former state of things, the restriction of state control to intervention in the case of infractions of the law and a reasonable delimitation of jurisdiction as between the rural communes and the larger local authorities. The Association also demands "the restoration of the communal financial and taxing prerogatives," and for this purpose, in particular, the grant of the right to make additions to the income, corporation and land taxes in place of the existing system of grants.

In view of these strong expressions of opinion, coupled with the fact that the states are quite as much disturbed at the financial policy of the Reich as are the local authorities, it seems probable that the local government bills now before several of the state parliaments may be considerably modified before they become law, and indeed, that some of those local government constitutions which have actually been brought into existence in the last year or two may before long be radically amended.

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## CHAPTER XI

### SWITZERLAND

THE twenty-five Swiss cantons are sovereign states in so far as their sovereignty is not limited by federal legislation. They have each their own local government organisations, which are largely based on old-established customs and historical developments in the individual canton. Indeed, it may properly be said that the cantons have been built up on the foundations of the communes, rather than that the latter have been created by the State. The ancient systems of communal organisation have, however, been largely modified by cantonal legislation, especially during the past century.

While the systems in the various cantons differ considerably in detail, there are three distinct groups of cantons within each of which there is a certain similarity of organisation. In the French group and the Italian canton of Ticino the extent of self-government enjoyed by the local authorities is considerably less than in the German, while the third (or Berne) group may be said to hold an intermediate position between these two extremes.

#### AREAS OF LOCAL GOVERNMENT

While the *Commune* or *Gemeinde* is the recognised unit of local government, it is characteristic of Switzerland that in few of the cantons is there to be found a single unified type of commune. Different communes exist within the same area for different purposes, sometimes coinciding with, but more usually overlapping one another. The principal types are Citizens (or Burghers)

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Communes, Inhabitants (or Political) Communes, and Church Communes, while distinct School Communes and Poor Relief Communes are to be found in certain cantons.

It is, indeed, possible for communes either to combine (as *Zivilgemeinden*) or to split up (into *Ortsgemeinden* or *Viertelsgemeinden*), as may be most convenient, for different purposes, such as education, water supply, fire protection, etc., and this system has led to an indefinite and ever-changing variety of areas and bodies for local administration. New developments of this kind, however, are now discouraged, there being a tendency to concentrate all functions in the political (or inhabitants) commune.

Most of the cantons are also divided into *Districts* (*Bezirke*), in which the administration of cantonal functions is to a certain extent delegated to an official (*Préfet*, *Regierungsstatthalter*, *Bezirksammann*, *Oberamtmann*, *Commissario*) periodically appointed by the electors or by the executive or legislative bodies of the cantons.

In only two cantons, Schwyz and the Grisons, are there administrative areas intermediate between the commune and the canton, with representative councils and self-governing powers. These are known as *Districts* (*Bezirke*) in Schwyz, and *Circles* (*Kreise*) in the Grisons.

*The Commune of Citizens* (*Commune des Bourgeois*, *Bourgeoisie*, *Bürgergemeinde*) was the primitive institution for the carrying out of the objects of the commune. It may be described as a close corporation, which has now been largely superseded and, where it still exists, is concerned only with the management of the common property of the burghers or citizens, the granting of the status of citizenship, assistance to citizens and here and there the levy of a tax for the benefit of destitute citizens and the exercise of guardianship, with some other functions of minor importance.

The authorities of the commune of citizens are usually

the *Assembly* of the whole body of citizens admitted to the suffrage and a *Citizens' Council*, which exercises the administrative functions, frequently with the assistance of committees (Orphans' Committee, Poor Committee, etc.).

A special type of commune, which is very similar to the commune of the citizens, is the *Patriziato* of the Canton of Ticino. This is governed by a council on which families, and not individuals, are represented. The members of the *Ufficio patriziale* are known as "consoli" or "saltarii." The patriziati administer the large areas of land which they own. They are concerned to some extent with education, and are responsible for the organisation of the forest police (saltarii or guardaboschi). In this canton there are also bodies administering smaller estates than those of the patriziati, but on similar lines, and known as "squadre, terre, bogge, corporazioni" or "degagne."

In several cantons the creation of new citizens' communes is now forbidden by the constitution.

The *Commune of Inhabitants* (*Commune des habitants*, *Einwohner-gemeinde*), sometimes called also the "political commune," is now the most important. It may be described as a territorial, whereas the commune of citizens is a personal, community. These communes were originally established under the Helvetic Republic (:798—1802) and now number 3,164, the population varying from under 50 to over 200,000. It is this type of commune which, at the present day, usually possesses all powers which are not specifically recognised by law as appertaining to some other type.

The *Church Communes* (*Kirchgemeinden*) usually coincide in area with the political communes. In early times they exercised many functions which are now undertaken by other authorities, but they are now almost entirely confined to church matters. They may levy a tax on persons belonging to the particular religious denomination which they represent.



## COMMUNAL ORGANISATION

The communes of each type have their own councils and organisation, which are thoroughly democratic in form and are generally on the same lines as in the case of the political (or inhabitants) commune, which will be here described.

The supreme authority in each political commune is the *Communal Assembly* (*Assemblée communale*, *Gemeindeversammlung*), which is composed of all persons entitled to the communal vote, namely, all male persons who are twenty years of age and have been in residence not less than three months.

This body has the control of all affairs appertaining to the particular commune, except as regards actual executive administration, approves the budget and communal accounts and fixes the local taxes, by-laws and regulations.

The cantonal legislation provides under certain conditions that the communal assemblies of important places can delegate certain of their functions to a *Council General* (*Conseil général*, *Conseil communal*, *Conseil de ville*, *Stadtrat*, *Grosser Stadtrat*, *Gemeinderat*, etc.), elected on the majority system or by proportional representation. Such bodies are to be found in almost all the towns and other populous places.

The actual administration of the commune is carried on by a *Communal Council* (*Gemeinderat*, *Kleiner Stadtrat*, *Municipalité*, *Conseil communal*, *Conseil municipal*, *Municipio*, etc.), usually of five to nine members, which is elected by the communal assembly or council general. Its functions are usually distributed among sub-divisions, each of which is directed by a member of the council, but certain administrative functions may be entrusted to special commissions.

The *Mayor* or other head of the communal administration (*Syndic*, *Maire*, *Gemeindepräsident*, *Stadtammann*, *Sindaco*) is chosen by the communal assembly or by

general election, and in some of the cantons is invested with special functions.

The communal officials are appointed by the communal assembly or communal council and are responsible to the commune alone so far as they are concerned with its affairs. Where they exercise State functions they are responsible direct to the canton, but even those who are purely local State officials are usually appointed by the commune.

#### COMMUNAL FUNCTIONS

There are certain functions of the communes which, whatever their historical origin, may be said at the present day to be duties which they are required by the State (*i.e.*, the canton) to undertake, and are usually set out specifically in cantonal constitutions or statutes. These include police, poor relief, guardianship, education and (except in Basle) the ordinary maintenance of the communal streets and roads.

Apart from these duties, the communes are, generally speaking, free to exercise such functions as they consider to be for the benefit of their respective communities. The state constitution of Zurich, for instance, lays it down that "the communes are authorised to conduct their affairs independently within the limits of the constitution and the laws."

It follows from this freedom that, in addition to all the usual functions of a local authority, municipal playgrounds, theatres and other places of amusement are common and that municipal enterprises in connection with water supply, gas, electricity, tramways and local railways are also frequent. The larger and richer communes maintain hospitals and asylums.

The fact that separate districts and authorities are frequently formed for different purposes is not in reality a limitation on the powers or importance of the primary commune. It is rather a practice, voluntarily adopted,

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of dividing or uniting districts in the manner best suited for the carrying out of any particular function over a defined area.

### SYSTEMS IN FORCE IN CERTAIN CANTONS

The following details of the actual organisation in a few selected cantons will illustrate the great variety through the country.

BERNE.—This canton has an area of 2,657 square miles and a population (in 1920) of 669,966. The principal types of communes are the inhabitants, citizens and church communes, but in the year 1900 the following list, in addition to an unrecorded number of church communes (which usually include the territory of several inhabitants' communes), is given :—

- 126 Mixed Local Communes (Ortsgemeinden). These are combinations of inhabitants' and citizens' communes, which cease to function separately.
- 381 Inhabitants' Communes.
- 177 School Communes. These are set up by division or combination of inhabitants' communes, which are primarily responsible for elementary education.
- 104 Bäuertergemeinden, having a municipal character.
- 58 Bäuertergemeinden, having a citizenship character.
- 126 Bürger or Citizens' Communes, having guardianship functions.
- 138 Bürgergemeinden, dealing with property only.
- 6 Special Citizens' Associations.

LUCERNE.—This canton has an area of 579 square miles and a population (in 1920) of 176,189. There are four principal types of communes :—

- (a) 107 Inhabitants' Communes, concerned with all branches of local government except those relating to the poor, to communal property and to the church, and including education. The general assembly consists of all citizens who have been resident for three months,

and the communal council of three to five elected members. The town of Lucerne has a special organisation, including a council of sixty members.

(b) 107. Citizens' Communes, consisting of all domiciled citizens, mainly concerned with the administration of poor relief and guardianship. These sometimes delegate their powers to the inhabitants' communes.

(c) 105 Corporation Communes, for dealing with communal property.

(d) Church Communes—eighty catholic and one protestant—which administer church property, raising a rate for the purpose on persons belonging to the same religious society.

NEUCHÂTEL.—This canton has an area of 312 square miles and a population (in 1920) of 130,671. It contains sixty-three communes of the two types of citizens and inhabitants. There is in each inhabitants' commune an elected council general of fifteen to forty members, which in turn elects a communal council of three, five or seven members, and also an education committee of three to forty members.

The citizens (*électeurs ressortissants*) may also establish a separate council to supervise and control the administration of the communal property, but this is done in only three communes.

NIDWALDEN.—This canton, with an area of 112 square miles and a population (in 1920) of 13,966, is divided into eleven political (in this canton known as *Bezirksgemeinden*), seven church, sixteen school and six poor relief communes. The areas of these different communes do not regularly coincide, but there is, roughly, a territorial relation between the political and school cantons on the one hand and the church and poor relief communes on the other.

GRISONS.—This, the largest in area of the cantons (2,773 square miles), with a population in 1920 of 119,854, differs considerably from the other cantons in its organisation. Article 12 of its constitution reads:

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"The canton is divided, for political, judicial and administrative purposes, into districts, circles and communes (Bezirke, Kreise und Gemeinden)."

The districts are purely judicial divisions and have no representative bodies. The circles, thirty-nine in number, have each an assembly (Kreisversammlung) and a council (Kreissrat) with a president (Kreispräsident). These bodies exercise local State functions and have certain self-governing powers, including that of levying a rate.

The most important divisions, both historically and actually, are the communes, which enjoy a greater measure of autonomy here than in any other canton. No constitution or statute sets out their powers and duties, except that there exists, since 1890, a model form of communal constitution, which the communes are recommended to adopt. This autonomy, while dating from the Middle Ages, has been strengthened in more recent times, the principle of the referendum as a right of the whole people being established only in the nineteenth century.

Citizens' communes, as distinct from political communes are recognised.

ZURICH.—This canton has an area of 666 square miles and a population (in 1920) of 535,634. It contains political, school and church communes and there are also, in sixty-seven communes, 235 "civil communal unions" (Zivilgemeindeverbände), which co-operate with the communes for the execution of specific functions and constitute a great variety of administrative combinations. There were also, in 1917, 327 independent school communes.

### FINANCE

The systems of communal finance vary considerably in the different cantons. Generally speaking, the communes obtain the major part of their resources from

additions to the State taxes and from direct local taxes, in varying proportions.

The local direct taxes may be poll-taxes or taxes on property, income, wages, rent or capital.

Dog taxes are a very general form of revenue. Bicycle, motor, hunting and fishing licences are also common. In some cantons the communes can levy transfer and death duties. Local taxes are also levied on servants, horses, carriages and billiard tables. The French cantons are more addicted to this type of taxation than the others.

A proportion of the produce of the Federal tax on alcohol is assigned to the cantons and often by them to the communes. The moneys received from this source must be used in the fight against the evils of alcohol, but this expression is liberally construed—it is, for instance, held to include the maintenance of lunatics and the support of well-managed vineyards.

The limit of income exempted from tax varies considerably in the different cantons, as also does the scale of graduation, where this exists, but graduated taxation by the communes is not permitted in many cantons.

It should be added that the property owned by the communes is in itself a fruitful source of revenue. Many citizens' communes possess large estates, and in some instances distribute wood, agricultural produce and even money to the citizens, local taxation being reduced in these cases, for citizens, practically to vanishing point. Indeed, it was the administration of this common land which was the original basis of communal organisation, and the rights and privileges connected with it form the principal reason for the continued existence of citizens' communes side by side with the more modern political communes.

A large proportion of the communes publish no printed statement of accounts; comparative financial statistics are therefore lacking even within an individual canton.

## CONTROL OVER COMMUNES

Control over communes is strict only in respect of functions which have been delegated by the cantonal authority and where the commune is therefore acting as an agent of the canton. So far as other powers are concerned, the control by the superior authorities is little more than formal. This applies to all matters relating to communal property or to any measures taken in the interest of social welfare, unless these endanger the financial stability of the commune.

The Zurich group of cantons can exercise control over the communes only when there has been an actual infringement of the law. In the French cantons action may be taken when any proceeding of a commune is held to be unsuitable for its purpose, and administration by a commissioner may be set up whenever it appears that the orderly administration of the commune is in danger of being interfered with. In the third group of communes there is a variety of practice.

In Appenzell a/Rh, Zug, Fribourg, Valais, Neuchatel and Berne, all communal regulations must be sanctioned by the cantonal authorities. In Zurich, Schwyz, Aargau, Basle (town), Glarus and Grisons no such sanction is required. In the remaining cantons a distinction is made between those regulations which need sanction and those which do not.

The cantons have generally the right of inspection of all communal affairs, but this right is not always exercised. There are in the constitutions of some cantons provisions for the inspection of the communal administration once in every two or four years ; in Appenzell a/R it is required only every ten years.

In four cantons (Fribourg, Vaud, Neuchatel and Berne), representatives of the superior authority are entitled to attend the communal meetings, and in Neuchatel such a representative has an advisory vote.

In the French cantons most communal resolutions

must be submitted to the cantonal authorities for approval. In the rest of Switzerland the cantons have the same power of requiring the submission of resolutions, but avail themselves less of it in practice. Resolutions relating to organisation and finance require approval in all cantons.

Whether or not the power to disallow communal resolutions applies only to those which are *ultra vires* or also to those which are inexpedient, is a matter for the law of each canton, but in any case of doubt communal autonomy must prevail.

The power of the canton to act in default of a commune exists in many cantons, but is seldom put into force.

ADMINISTRATIVE COURTS.—Generally speaking, administrative tribunals are available for persons who wish to contest any communal act, but they are of less importance in those cantons in which communal regulations and resolutions need cantonal sanction than in those in which there is greater communal autonomy. Thus, in the Zurich and Berne groups practically all proceedings of the communal authorities may be brought before the administrative courts, whereas in the French cantons only certain specific actions may be thus appealed against.

As a rule, only the illegality of a communal act is a ground for appeal, but in two cantons (Obwalden and St. Gall) the acts of a communal authority may be appealed against before an administrative court on the ground of their inexpediency.

In some cantons appeal may be brought against communal resolutions authorising expenditure "which is not in the public interest," whilst the law of Glarus allows the minority in a communal assembly to appeal on the ground that communal taxes are unnecessary, too high or too low.

OFFICIALS.—Cantonal control over communal officials exists in some cantons, either in the form of approval of their appointment or of disciplinary powers. Generally



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speaking, however, it is an established principle that the *communes themselves appoint all officials whose area of service is the commune, even if they are employed on State service.* The official is responsible to the commune alone, so far as he is concerned with communal affairs; on State business only is he under the direct control of the canton.

**FINANCIAL CONTROL.**—In the Zurich group of cantons the communal property in land may not be touched except that, with the consent of the cantonal authority, portions may be disposed of for the erection of permanent buildings.

In Zurich, Aargau, Thurgau, Zug and Basle (town) the communal accounts must be approved by the canton. In Schwyz, Appenzell a/R and Appenzell i/R a mere informal examination of all or certain of the accounts is necessary. In Glarus, Obwalden and Nidwalden no examination is required.

In Aargau, Basle (town) and Schwyz the communal budget must have cantonal approval.

Approval of the financial resolutions is required only in exceptional cases in most cantons of this group and, as a rule, only for such resolutions as might endanger the existence of the commune or as a result of which communal capital is affected or immovable property is dealt with. Resolutions relating to local taxation frequently, but not universally, need cantonal approval.

The cantonal authorities have always power to intervene in the case of breakdown or mishandling of communal finance and to take such measures as they think fit.

In the French cantons, not only must the approval of the cantonal authority be obtained for any dealings with communal property, but also for the budget and accounts and for many financial resolutions, even of a comparatively unimportant nature. The position is much the same as regards the cantons in the Berne group.

A special case is that of Geneva, where the cantonal authorities themselves actually undertake a large pro-

portion of the financial administration relating to the communes.

**AUDIT.**—The audit of communal accounts can be undertaken by the cantonal authorities, but, as a rule, only the legality and not the expediency of expenditure is taken into consideration by the auditors.

#### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—The communes (*i.e.*, as a rule the inhabitants' communes) are very free to carry out such public health services as they think fit, and, generally speaking, they are extremely active in the matter. The actual administration is often undertaken by special expert committees, which may be either subject to the communal council or practically independent.

**EDUCATION.**—There is no centralised system of education, but the cantons are obliged, by the Federal Constitution, to make the necessary provision. The canton usually retains for itself the administration of higher education, but in some cantons (*e.g.*, Fribourg and Schwyz), the communes are obliged to erect middle or secondary schools. Elementary schools are provided and maintained, either by special school communes (as in Zurich, Nidwalden, Glarus, Appenzell i/Rh, St. Gall, Thurgau), or by the ordinary inhabitants' communes or sub-divisions of them. Each school has its own body of managers, appointed by the commune. The cost of education is met by a special rate levied by the commune at its own discretion.

**HIGHWAYS.**—The cantons are mainly responsible for all roads and bridges except the smaller roads and the streets in towns. As regards these, the communes (except in Basle) are under an obligation to undertake the ordinary maintenance. Anything beyond this, such as the laying down of special surfaces or the making of regulations for their use, is a matter within the discretion of the commune.

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The Federal Department of Public Works gives subsidies for certain roads and bridges, when asked for.

**PUBLIC ASSISTANCE.**—The relief of the poor had its beginnings in the citizens' communes, and is still carried on by them in a number of cantons. In Uri, Schwyz, Fribourg, Appenzell and St. Gall, however, this duty has been taken over by the inhabitants' communes. In the canton of Zurich, which has no citizens' communes, poor relief is a function of the church communes where these are of the evangelical confession, but in only one case is it undertaken by a catholic church commune. Glarus and Nidwalden are the only cantons which have distinct poor relief communes. This is looked upon as a delegated State function, the cantons exercising a general oversight and assisting the communes, in some cases by subsidies, in others by the provision of institutions. In Geneva the care of the poor is under a purely cantonal organisation.

Under the Sickness and Accident Insurance Act, 1912, cantons may declare insurance compulsory and establish funds for the purpose, or may delegate their powers to the communes. The Federal Government assists by granting subsidies.

**POLICE.**—This is one of the functions delegated by the cantons to the communes, but in the majority of cantons there is a cantonal force as well as a local force for each commune. Within the commune the communal council is the responsible police authority, but may delegate portions of its police powers to the Headman, or in some cases, to a member of the council (Polizeidirector, etc.).

An arrangement may be made by which the canton undertakes the whole of the police work, but receives a contribution from the commune for so much of that work as appertains to the functions of the commune.

In the smaller cantons (*e.g.*, Nidwalden, Glarus, Zug, Basle (town), Schaffhausen, Geneva), there is only one police force, under cantonal control.

## CONCLUSION

Local self-government, in every sense of the term, is probably more complete in Switzerland than in any other country. To a large extent the whole body of the people can directly participate in decisions as to the administrative policy of the locality. The various local authorities are completely independent of one another, and the central control over them is at a minimum.

The views on this subject of Dr. Walthard, in his recently published work on the Swiss communes, are of great interest. After alluding to the extension of communal activities in the matter of social welfare, he suggests that, as this is a subject which comes within the original autonomous powers of the commune, this indicates an extension, in that direction at any rate, of communal autonomy. On the other hand, he points out that there is at the same time a decided tendency in the other direction, since the increased powers of supervision which are being adopted by the cantons cannot but affect all branches of communal administration. If, for instance, the policy of a commune seems likely to prove financially disastrous, the canton can intervene, even though the matter in question be one which comes under the head of autonomous powers.

Switzerland offers a wide field for the study of methods of local government, for in no other country are there to be found so many varieties of local government bodies, forms of local administration or systems of local taxation. The extent to which many communes own property and pay their expenses out of the profits arising therefrom is remarkable, and municipal enterprises are common for all sorts of purposes.

A special characteristic of Swiss local government is the facility with which the communes subdivide and unite for specific ends, which is described by Mr. R. C. Brooks as one of the secrets of their remarkable efficiency.

Dr. Walthard, on the other hand, is distinctly of

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opinion that the various types of communes which exist in certain cantons are unnecessary and that a unification and simplification of the system is desirable.

It is certainly the present tendency to concentrate functions in the political commune, but, as Dr. Walthard himself admits, it will be difficult to alter institutions and systems which have grown up in the course of centuries and, in particular, the abolition of the separate citizens' communes would be extremely unpopular. Whatever there is to be said in favour of unification as a general principle, the possibility of forming special areas is recognised as a real advantage.

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## CHAPTER XII

### EASTERN EUROPE

#### A. AUSTRIA

THE Republic of Austria comprises nine provinces, in each of which there is a *Provincial Assembly* (Landesversammlung), elected on the basis of universal suffrage by persons not less than twenty years of age. A *Provincial Committee* (Landesausschuss) is appointed by each provincial assembly.

For the purposes of local State administration, the provinces are divided into *Administrative Districts* (Bezirkshauptmannschaften), with a *District Commissioner* as chief authority. There are 113 of these districts. The district commissioners are largely concerned, *inter alia*, with the supervision of the public health services, except in the case of towns possessing their own statute, but the principal responsibility for the actual conduct of these services rests with the communes, whose activities in this matter are prescribed by provincial regulations, which follow lines laid down by Imperial legislation.

There are now in Austria 3,913 *Communes* (Gemeinden), of which 3,551 have a population of less than 1,000, and only four a population exceeding 50,000.

In each commune there is a *Communal Council* (Gemeinderat) elected for five years on the same basis as the provincial assembly.

The *Burgomaster* (Bürgermeister) and his deputies, as well as the other heads of the local administration, are not, as in Prussia, professional officials, but ordinary members of the communal council, elected by the members of the council from among their number for the same period

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as the council itself. These heads of the different branches of administration are, however, during their period of office, responsible for the conduct of the offices of their particular branch, being assisted by special committees (Fachausschüsse). At the head of the general internal administration of the towns is an official known as *Magistratsdirektor*.

The financial system of the local authorities was materially altered in 1922. The power of the communes to make additions for local purposes to a number of State taxes was then taken from them. The power to add to the tax on immovable property remained, but in some provinces for the provincial authorities only, in others for both provinces and communes. The maximum rate varied in the different provinces, the highest being 200 per cent., while it was lowest in Vienna, Lower Austria and the Tyrol, where a local tax on increment value existed.

Some provinces and communes were entitled to add from 30 to 100 per cent. to the "Gebührenäquivalent" which is a tax on certain properties for a ten-year period. In a few provinces additions of from 60 to 90 per cent. are made to the betting tax.

To make up for these restrictions on their resources the following proportions of the produce of State taxes have been assigned to the communes as from January 1st, 1924 :—

	Per cent.
Income and general profits taxes . . .	25
Corporations taxes . . . . .	25
Beer, wine and spirit taxes . . . . .	15
Sparkling wine tax . . . . .	80
Tax on immovables and "Gebühren- äquivalent" . . . . .	40
Turnover tax . . . . .	20

Towards the end of 1923 it was proposed to prohibit local authorities from making additions to the income tax. These proposals were defeated, but the local

authorities were obliged to find 500 milliards of kronen for the central Exchequer, for about half of which Vienna was liable. As compensation, the local authorities were to receive a larger proportion from the produce of the buildings tax. The position is considered very unsatisfactory, for the local authorities are left in a state of considerable uncertainty as to the extent of the resources available to them.

The difficulties of the communes other than Vienna are accentuated by the fact that every resolution of their councils relating to taxation must be submitted to the provincial council, which has the power to alter it in the interests of the province.

Vienna itself stands on a special footing, as it is at the same time a commune and a province. It has a communal council of 120 elected members, which elects a *Town Senate* (Stadtssenat) composed of at least ten members (who must be eligible to, but not members of, the communal council), including the burgomaster and his two assistants. These latter, with certain officials, form the executive body known as the *Magistrat*.

The town senate, in addition to certain executive powers, can pass resolutions on any matters not expressly reserved to the communal council or the magistrat. It appoints officials and employees in accordance with proposals made by the magistrat. The latter, besides being the executive of the town senate, controls the police under the direction of the burgomaster, who is himself the responsible police authority.

In addition to this central organisation, Vienna is divided into twenty-one districts, each of which possesses an administrative committee of thirty members elected by the communal electors of the district. The Headman of each committee (Bezirksvorsteher) is its executive organ, but is strictly subordinate to the burgomaster. These committees, which meet at least once every three months, are required to assist the communal council and the burgomaster in carrying out their decisions, and have



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the right to lay before the communal council or the town senate proposals concerning their respective districts. There is also, in each of these districts, an office of the magistrat responsible for the carrying out of measures initiated by the central body.

### B. CZECHOSLOVAKIA

Of the five provinces of the Czechoslovak Republic, Bohemia, Moravia and Silesia still retain, in its main principles, the administrative *régime* which was in force under the former Austrian monarchy, whereas Slovakia and Ruthenia are governed rather on the Hungarian system.

In February, 1920, a law was passed under which the whole country would be divided into twenty-one *Counties* (*Zupas*), with the exception of Ruthenia, which remained an independent territory, attached to the Czechoslovak Republic and governed by a local Diet.

Under this Act the twenty-one counties would have an average population of 600,000 each, and would be divided into districts with an average population of 60,000. In each county there would be a *County Commissioner*, who would be a Government official, and a *County Council*, consisting of not less than thirty-five members, elected for six years, of which the county commissioner would be chairman. The county council would elect from its own number a *County Committee*, to serve for six years. In each district there would be a *District Commissioner* and a *District Committee*. This new system is, however, only gradually being introduced. At the end of 1922 it had been applied to Slovakia only.

The communes in Bohemia, Moravia and Silesia, under the existing system, elect a *Communal Assembly* every four years by universal vote of persons over twenty-one years of age. Electors, who are twenty-six years of age and have resided in the commune for an unbroken period of one year, are eligible. Men are obliged to accept office

unless they can show good reasons against it ; women may decline. Elected members must make a declaration of loyalty to the Czechoslovak Republic.

The communal assembly appoints the *Communal Council*, which is the executive body and sits, as a rule, once a week, and also the *Burgomaster* and his deputies.

Up to 1919 the communes possessed wide powers and duties. In February of that year it was decreed that the superior authorities or the State administration should take over from them a number of important functions, including elementary schools, security and public health, police, construction and maintenance of streets, relief of the poor and beneficent institutions, but little of this decree has actually been carried into effect.

The communes are subject to strict control, practically all resolutions of any importance requiring the approval of a superior authority, which will be that of the county when the Act of 1920 comes into force.

In Bohemia, a law of 1864 created 226 *Districts*, with district assemblies of from eighteen to thirty-six members, and district committees of six members. The Czechoslovak Government, in 1919, abolished these assemblies and committees and substituted for them *District Administrative Commissions*, having an average membership of fifteen members, appointed by and responsible to the central Government. The district administration is concerned in particular with institutions of various kinds, water supply, light railways, credit banks and, especially, highways. The district commissioners have also supervisory and appeal powers in relation to the communes, and are specially charged, by a decree of 1921, with control over the administration of communal property. In addition to these districts there are "political districts" for the purpose of the local State administration. A law of 1923 provided for the amalgamation of these two types of district.

The greater part of the revenue of the communes is obtained by additions to certain State taxes, among which

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the income tax is not included. The communes may also raise local taxes on house rents, lodgers, advertisements, unbuilt-on land, motor-cars, dogs, bills in luxury establishments and other matters defined by law, but the proposal to levy any of these taxes must be voted by a specified quorum of the communal assembly, must be advertised and must be approved by the higher authorities. Other resources include charges for the use of public services and income from communal property.

Since the establishment of the Republic several towns have been enlarged by the annexation of adjoining communes. The most important instance is that of the capital, Prague, the Act constituting a Greater Prague being dated February, 6th, 1920. Under this Act the municipality of Prague consists of 100 members, who elect a municipal council of twenty-four. This council can appoint such special advisory committees as it thinks fit. The city is divided into nineteen arrondissements, in each of which is elected a municipality which advises the central council and has also certain executive powers. It appears that this organisation is not found to be satisfactory and the question of altering it is under consideration.

### C. ESTHONIA

The Republic of Esthonia is divided into eleven arrondissements, within which the areas of local government are towns, villages and rural districts. The local authorities, which are elected by universal suffrage, are entitled to take any action which they consider to be in the interests of the community, provided that it is not explicitly forbidden by law.

The towns enjoy a very large independence in the matter of taxation. The law sets out a long list of taxes which may be levied by the communes at their discretion, including taxes on real and personal property, income, and business, and duties on goods imported into or

exported from the towns. There are no less than thirty heads of taxation which are thus open to the local authorities and, in addition, a town council may, with the consent of the Ministers of the Interior and of Finance, establish other taxes not specified by law. In the case of some taxes a maximum rate is fixed by law; in other cases the maximum must receive the sanction of the Ministers of the Interior and of Finance. The local authorities also receive State subventions, but these are not at present on a permanent or regular basis.

Communes may raise loans for public works for periods of ten years, at a rate of interest not exceeding 6 per cent.

There is no Government audit, the municipal accounts being subject to a municipal audit only.

The Minister of the Interior exercises control over the proceedings of the local authorities for the purpose of ensuring their legality. In the case of the villages and rural districts, a primary control is exercised by the "Administration of the Arrondissements," which must present an annual report to the Minister of the Interior, and acts under his instructions.

The proceedings of all local authorities must be submitted within four days to the Minister, who may protest within fifteen days on the ground of illegality. In the case of regulations, if these are returned by the Minister with suggested alterations, they must be re-adopted by a vote of two-thirds of those present at the meeting or they will be considered to be rejected.

- The protests of the Minister are heard by an administrative tribunal, whose concern it is to protect the autonomy to which the local authorities are entitled under the law.

#### D. FINLAND

The first general law regarding the urban communes of Finland dates as far back as 1350 and governed their administration until 1734. The most recent laws now in force are those of 1873 and 1917.

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The administration of the rural communes was first regulated by a law of 1865. Further laws were passed in 1898 and 1917, and these have been subsequently amended.

The primary areas of local self-government are rural communes, villages, and urban communes or towns. For the purpose of local State administration, the country is divided into nine departments and these into rural districts and commissariats.

The prefect and sub-prefect have powers of control over the communes, but the latter have, nevertheless, very wide powers of self-government, including the holding of property and the undertaking of municipal enterprises. Resolutions relating to public health, morality or police, must be submitted to the prefect for approval and also, in the case of rural communes, proposals to borrow money for periods exceeding five years. The approval of the Council of Ministers is necessary for the sale of land or the establishment of tolls or port dues, or for the borrowing of money by towns for periods exceeding two years. The approval of other Ministers is required for regulations relating to public assistance or elementary schools.

The communal councils, which are elected by men and women of twenty-one years of age who have paid the local taxes for the preceding two years, may exercise any powers which are not definitely attributed to the State or some other authority. Public assistance and elementary education are obligatory duties. Each council must appoint an executive, consisting of the burgomaster or headman and a small number of councillors.

The local authorities may levy a local income tax, no limit being placed on the rate, but may levy no other taxes unless sanctioned by a general law. State grants are given for elementary and higher education and other purposes. In 1924 State grants represented only 8 per cent. of the revenue of towns on the ordinary budget and 4 per cent. on the total budget, but 20 per cent. of the revenues of rural communes.

There is little financial control over the communes except in the matter of loans. "Inscription d'office" is unknown, and auditors are locally elected.

Any inhabitant of a commune can appeal against a decision of the communal authority to the administrative courts, the prefecture being the administrative tribunal of first instance and the supreme administrative court the second.

There are in Finland only four towns with over 40,000 inhabitants, but the question of the administration of the suburbs of the larger towns, nevertheless, is one of importance, and much attention is being given to it.

In 1898, a law was passed giving power to the suburbs to exercise autonomy within certain limits. The idea was to create a temporary communal form, which would prepare the way for a more complete municipal organisation. The special communes thus formed were not to be separated entirely from the rural communes of which they formed part, but to exercise certain powers within them. At the same time an attempt was made to equalise to some extent the local taxation in a rural commune containing suburban areas and in the town which it adjoined. This system, however, has had little effect in practice.

The Government, therefore, are contemplating legislation on different lines. The failure of the 1898 Act has been largely attributed to the fact that it counted upon the initiative being taken by the various communes affected, whereas the rural communes have shown themselves little interested. The permanent committee for the drafting of Bills has, therefore, been instructed to draw up a scheme based on the principle that these questions are primarily of national concern and that therefore the initiative must be taken by the superior provincial authority, that is, the prefecture. It is proposed that this authority shall prepare regional schemes and, where necessary, require the execution of extension plans, lay down building regulations and supervise and direct the whole process of urbanisation.

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It is considered that this can be done without involving any necessity, at any rate at first, for the creation of a new area of administration.

There are, however, cases where the annexation by a town of adjoining communes is advisable. This was formerly effected by decree of the Government, without any legislative formality. An Act of May 19th, 1925, has introduced a system of procedure which is calculated to safeguard the interests affected by such a change, in particular, those of the agricultural community. It also provides for the possibility of compulsory incorporation of suburban communes.

Hitherto the towns have, for financial reasons, been disinclined to annex any lands except such as had become the property of the commune. The proposed new Town Planning Bill, by giving them for the first time the power to control the development of privately-owned land, will facilitate the amalgamation of such lands with the urban centre. Moreover, the towns will be empowered to acquire compulsorily such land as they may need for their future expansion.

### E. HUNGARY . . .

Five distinct classes of primary local authorities are recognised, namely (1) the city of Buda-Pest; (2) urban municipalities; (3) towns having a "constituted council"; (4) large communes; (5) small communes, which are obliged to form administrative unions.

The two first classes enjoy a considerable amount of autonomy subject to financial control. The remaining classes are all more or less subject to the "Comitat" or county municipality, there being a right of appeal within fifteen days from the comitat to the Minister of the Interior.

The supreme head of each county or urban municipality is the *Prefect* (Főispán), who represents the Government, while the *Vice-prefect* (Alispán) in the counties and the

*Mayor* (Biró) in the towns are the chiefs of the purely self-governing side of the administration. •

In each county or urban municipality there is a *Municipal Committee*, one-half of which consists of the persons who pay the highest taxes and the other half of members elected for six years. Their numbers vary from 48 to 600 according to the population.

The *Administrative Committee* is an advisory body consisting of the directors of the local State offices, the higher municipal officials and ten members elected from the municipal committee. There is also an advisory *Municipal Health Committee*, consisting of the chief medical officer, all the medical and veterinary officers, an engineer, an architect and a pharmacist, together with members, equal in number to the *ex-officio* members, appointed by the general assembly of the municipal committee.

In the urban municipalities the *Corporation*, which consists of councillors, chief clerk, public prosecutor and, for certain questions, the chief of police, and is presided over by the mayor, is an additional body to the municipal and administrative committees.

In Buda-Pest the administration of the municipal corporation is divided into sections, each of which is directed by a councillor.

The organisation of the other three classes of primary local authorities is on almost identical lines, there being in each case a *Representative Council*, which is the deliberative body, and a *Town or Communal Council*, which is the executive and consists of from two to four members, together with the mayor and deputy mayor, clerk, public trustee and medical officer. The towns in class (3) have an ordinary or "constituted" council in addition, while the smallest communes are grouped into a canton and have a joint clerk.

Communes obtain revenue by adding centimes to the national land tax and certain other taxes. They receive one-fourth of the produce of the traffic tax, which they collect on behalf of the State. The towns can also levy



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an octroi duty and licence duties, and may raise new taxes on any subject not taxed by the State.

The comitats, which until recently met their expenses by means of a direct departmental tax and a road tax, now raise their revenues by precept on the communes and towns with constituted councils.

All local authorities must submit their annual budget, and all resolutions relating to dealings with land, the raising of loans or contracts for purposes other than public works, to the Minister of the Interior, the resolutions becoming effective if no objection is raised by the Minister within forty days.

The raising of municipal loans and the carrying out of public works have been facilitated by the formation, on the initiative of the National Congress of Hungarian Towns, of a limited liability company, in which the majority of the shares are held by the towns:

The control over the communes and smaller towns is exercised in the first instance by the comitat, whose previous approval is necessary for the levying of a communal tax, disposal of communal property, raising a loan, entering into contracts not included in the budget, erection of important public works, and certain other matters. A commune may, within fourteen days, appeal from a decision of the comitat to the Minister of the Interior.

The Minister of the Interior has power to dissolve the representative council of a small town or a commune and order a fresh election, if the representative council acts in a manner which endangers the interests of the State or of the commune. In 1924 the Minister was given power, on the proposition of the chief mayor, to dissolve the municipal committee of Buda-Pest if it resisted any law or legal provision, refused to carry out measures legally required of it or proved incapable of functioning. It is probable that these provisions will be extended to the other municipalities.

The legal rights of the local authorities are protected by the High Administrative Court, to which appeal lies

against a Government department in cases specified by law.

#### F. POLAND

The systems of local government in force in the different parts of Poland still bear the stamp of the Prussian, Austrian and Russian domination respectively, although a number of reforms have been introduced and further are contemplated.

In the formerly Prussian area the municipal administration is in the hands of the burgomaster (called president in the largest towns), deputy burgomasters and aldermen. The municipal council has no control over this body as regards functions delegated by the State. The appointment of burgomaster or president must be confirmed by the State Government and all municipal officials are considered as employees of the State, although appointed by the municipal council. Financial control is exercised especially as regards new taxes and loans, and the system of "inscription d'office" is in force.

Before the War the three-class system of electors existed, as formerly in Prussia, and the term of office of councillors was six years. In 1919 universal suffrage was introduced, and the term of office of councillors was reduced to four years. Burgomasters are appointed for a twelve years' term.

In the Austrian region the government of the principal towns depends upon charters, but that of the rural communes is based on similar principles. A municipal council is elected for six years, one-half retiring every three years. The council consists, as a rule, of from eighteen to thirty-six members, but in one case there are as many as 103. The executive consists of the president or burgomaster, with his deputies, who are elected by the council for six years and have almost unlimited power, except that the municipal council settles the local taxes. The State Government can dissolve a council or can annul its proceedings on the ground of illegality.

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In the Russian parts of Poland there was no local self-government until 1919. In that year a temporary Act was passed, which provided for municipal councils elected by proportional representation. The executive consists of the president or burgomaster, several deputies and a body of aldermen, who number 10 per cent. of the councillors, and may be chosen from outside the council.

The executive of the district exercises supervision in the first instance, and the *Governor* (Wojewode) in the second instance, the larger, or separated, towns being directly under the governor. Resolutions relating to taxes or loans, disposal of land and plans of construction are subject to approval and the system of "inscription d'office" is practised.

The Union of Polish Towns has given very great consideration to the question of municipal reform, and has agreed suggestions for a uniform system, which would provide for a considerable measure of local self-government and for the participation in it of the citizens generally.

Under these proposals there would be three classes of towns, viz. : (1) those under 10,000 population, controlled by the district authorities ; (2) the larger towns, controlled by the wojewodes ; and (3) the six largest towns, controlled directly by the Minister of the Interior. The municipal council would be elected for six years. Men and women twenty-five years of age would be entitled to vote, but would not be eligible for election under thirty years of age. The municipal council would choose from among themselves the burgomaster or president, with deputies, and aldermen, who would together constitute a paid executive, the appointment of president and burgomaster requiring governmental confirmation. The executive would have power to refer back any resolutions of the council, but such resolutions would become effective if re-affirmed by a two-thirds majority. The budget would be subject to State approval. The county authorities would have power to dissolve the

councils of the minor authorities and the Minister of the Interior those of the large towns, except the six largest, whose councils would be subject to dissolution only by special order of the President of the Republic, on the advice of the Council of Ministers, such dissolution of a municipal council to be followed by new elections within three months.

#### G. ROUMANIA

The system of local government throughout Roumania is now regulated by an Act promulgated June 13th, 1925.

The country is divided into *Districts* (*Plasi*), and these into *Communes*—*Urban* or *Rural*. Urban communes may be subdivided into sections for convenience of administration. The most important urban communes, which will be the centres of *Prefectures*, will be declared such by a municipal law and will be known as *Municipalities*.

*Communal councils* consist of elected members, *ex-officio* members and co-opted women. Each council elects from its own members a standing committee, of which, as well as of the council itself, the mayor is the executive.

The powers of local authorities are specifically laid down by law, some as functions of the council itself, others as functions of the standing committee.

In order that ratepayers may have the opportunity of objecting to any proceedings of a council, if they consider themselves aggrieved thereby, resolutions do not become effective until ten days after they have been passed.

The superior authority can annul any resolutions of a communal council which contravene statutes or regulations or are inconsistent with the order and safety of the State, and can also dissolve a communal council or take other disciplinary measures.

Municipalities will be directly under the control of the Minister of the Interior, assisted by the Superior Administrative Council ; other authorities are controlled in

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the first instance by the prefect. Special approval is required for sales of property involving amounts exceeding one-tenth of the annual revenue ; for exchanges and other transactions involving amounts exceeding one-twentieth of the ordinary annual revenue ; for commercial undertakings, the cost of which exceeds one-fourth of the ordinary receipts under the relevant head of the budget ; for any resolutions relating to the budget ; and for regulations on matters of public health, building lines, taxes or police.

The local authorities can levy direct or indirect taxes and make charges for services. All resolutions relating to assessment and levy of taxes require the approval of the Minister of the Interior and the Superior Administrative Council ; loans up to an amount exceeding one-fifth of the ordinary revenue require the approval of the Superior Administrative Council and the Council of Ministers.

The accounts of local authorities are audited by a central office, which has powers of approval and surcharge.

Local government officials are practically on the same footing as civil servants, their status being established by law.

### CHAPTER XIII

## GREAT BRITAIN AND IRELAND

### A. ENGLAND AND WALES

FROM the ninth century, when England became a single kingdom, townships or parishes, hundreds, and shires or counties were for long the units of local government and, except for the disappearance of the hundred, that division is still the basis of the existing organisation.

Side by side with these arose the boroughs, created by royal charter, some of the existing charters dating back as far as the reign of Henry I., though it seems that the first known charter of *incorporation* was granted to Kingston-upon-Hull in the year 1439. Under these charters of incorporation, the "Mayor, Aldermen and Burgesses" of the boroughs became corporations with powers of self-government, which modern legislation has confirmed and extended.

Much local government was, however, in former times carried out by statutory authorities for special purposes in boroughs as well as in the country districts.

The modern system in the boroughs was introduced by an Act of 1835, which swept away the evil system of close corporations, with the jobbery and corruption which characterised them. This Act was re-enacted with important developments by the Municipal Corporations Act, 1882, which is now the governing statute relating to boroughs.

Representative county councils were created by the Local Government Act, 1888, county administration previous to that date having been carried out by the justices of the peace and the special authorities already mentioned.

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The Public Health Act of 1872 had previously divided the whole country into urban and rural sanitary districts, the boards of guardians (see under "Public Assistance") being responsible for the administration of the latter, that of the former being carried out by the town councils in the boroughs and elsewhere by local boards of health or improvement commissioners. The Local Government Act of 1894 abolished these latter bodies and also deprived the guardians of their sanitary powers and duties, substituting for them urban and rural district councils and establishing parish councils and parish meetings throughout the rural districts of the country.

The central department supervising the administration of sanitary legislation and the Poor Laws, as well as various other matters concerning local authorities, is the Ministry of Health, which took the place of the Local Government Board in 1919. The local authorities are, however, supervised by other of the central departments in connection with their various functions.

### MAIN PRINCIPLES

Under the existing system the local authorities for each local government area are elected councils, each of which elects annually its own chairman (called in boroughs a *Mayor*, and in certain large boroughs a *Lord Mayor*), who has no special powers other than that of presiding at the meetings. All local government powers, whether legislative, administrative, or executive, are vested in the elected council. The members of the councils do not receive a salary nor any payment towards their expenses.

Officials act under the directions of the council. They are appointed and dismissible by the council, but in certain cases the appointment or dismissal is subject to the approval of a Minister.

There is one exception to this general rule in the anomalous position of the clerk of a county council, who is himself appointed, not by the county council, but by

the standing joint committee (see under "Police"), holds a freehold office and is alone responsible for the appointment, control, payment and dismissal of the members of the staff in his department. Although this is the legal position, it is not wholly carried out in practice, and an alteration of the law is under consideration.

Local authorities and their officials are subject to the ordinary law, there being no administrative courts. On certain points, however, persons aggrieved by the decision of a local authority can appeal to the Minister of Health.

It is the duty of local authorities to exercise such functions as are made obligatory upon them by Parliament. Local authorities have also power to exercise additional functions, but only so far as is definitely provided for in a General Act or specially conferred upon a particular authority by a Local Act, Parliament being the sole source of the powers, as of the existence, of local authorities. Bills for Local Acts may be promoted by a county, town or urban district council, but a town or urban district council must obtain the consent of the electors to the proposal and for this purpose are obliged to hold a town's meeting and may be obliged to take a poll. "Adoptive Acts" are general Acts of Parliament which do not apply to any local authority unless voluntarily adopted by them.

Certain local authorities have power to make by-laws, but these require to be confirmed by a Government department. For most purposes model by-laws are issued by the Government department concerned.

With certain exceptions, municipal trading can be carried on by a local authority only if they have obtained the necessary powers by means of a Private Act or a Provisional Order. Such powers are, however, very frequently granted and there are large numbers of municipal enterprises concerned with gas, water and electricity supply, tramways and markets. There are also instances of municipal docks, ferries, golf links, race-



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courses, Turkish baths, crematoria and a variety of other undertakings.

The work of the local authorities is carried out mainly by committees, which consist as a rule solely of members of the council, but, for certain purposes defined by law, non-members may be co-opted. Some of these committees are obligatory by Act of Parliament and to some the councils may delegate certain of their powers, but as a rule their proceedings need the council's ratification and in no case may a council delegate to a committee the power to raise a rate or to borrow money.

A man or woman is entitled to vote at local government elections who is of the age of twenty-one, is subject to no legal incapacity and has, for a qualifying period of six months, occupied as owner or tenant any land or premises in the area. A person is not considered to be a tenant who occupies rooms which are let to him furnished. A woman who is not owner or tenant, but is the wife of a man who is so qualified, may vote in respect of premises in which they both reside if she is thirty years of age.

Any person may be elected to any local authority for an area in which he or she is a local government elector, or who has resided in the area for twelve months preceding the election or who is the owner of property in the area, subject to certain disqualifications which include bankruptcy, conviction and imprisonment for certain terms, the holding of any paid office under the council, interest in any contract with the council and, in the case of parish and district councils, the receipt of Poor Law relief within twelve months before election.

### THE PARISH

The smallest unit of local government is the *Civil Parish*. This is based on the original ecclesiastical parish, but for local government purposes the parish is no longer of importance in the boroughs and urban districts.

The number of rural parishes in England and Wales in 1922 was 12,850.

Each of these parishes has a *Parish Meeting* consisting of all the parochial electors. In every parish with over 300 inhabitants the parish meeting must, and in a smaller parish may, with the consent of the county council, elect a *Parish Council*, consisting of five to fifteen members, to hold office for three years. In 1922 the total number of parishes having parish councils was about 7,200.

The principal functions of a parish council are the maintenance of footpaths and rights-of-way, and the provision of allotments. They can also provide buildings for offices and meetings and recreation grounds and, if the parish meeting adopts the necessary Acts, street lighting, public baths, burial grounds, libraries, etc. They can make representations to the district or county council on sanitary or other matters which are not being satisfactorily attended to. A rural district council can delegate certain of its powers to a *Parochial Committee* (which may be the parish council) for the area of the parish.

In small parishes without a parish council, the parish meeting exercises certain of these powers and may be vested with other powers of a parish council by the county council.

#### THE RURAL DISTRICT

• The whole country, exclusive of the urban districts and boroughs, is divided into *Rural Districts*, each of which consists of one or more parishes.

The present number of rural districts in England and Wales is 658, of which eight have a population (1921) under 1,000, and five over 50,000, while 369 have between 5,000 and 15,000. The areas vary roughly from 2,500 to over 150,000 acres.

The electors of each parish in a rural district elect at least one representative on the *Rural District Council*,

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which holds office for three years. This body is the sanitary authority for the district and is also responsible for the maintenance of all public roads which are not under the control of the county council, for housing and for building by-laws. It can exercise town-planning powers at its discretion and can obtain further powers (mainly relating to public health) by consent of the Minister of Health.

### THE URBAN DISTRICT

The *Urban Districts* are those areas which have been constituted as such, with more extensive local government powers than the rural districts. It is the presumption that they have a more urban character than the latter, but there are many urban districts which include large areas of agricultural land, while many rural districts are distinctly urban in character, at any rate in some parts of them.

The total number of urban districts in England and Wales was 791 in 1922. The population varies from 246 to 165,669.

A rural district, or a certain portion of one, can be constituted an urban district, or an urban district can be extended by taking in a portion of the adjoining rural district, by order of the county council, subject to confirmation by the Minister of Health.

Each urban district has an *Urban District Council*, consisting of such number of members as the county council may determine, elected for three years.

The urban district council is the sanitary authority for the district, and as such, has very considerable powers and duties under the Public Health and other Acts. It is responsible for all public streets and highways, except those under the county council, for building by-laws and for housing and town-planning (which is compulsory in urban districts with a population over 20,000). \*It can provide public parks, libraries, baths, museums, burial

grounds, etc. If over 20,000 population in 1901, it is the local authority for elementary education.

### THE MUNICIPAL BOROUGH

*Municipal Boroughs* are created by Royal Charter, and in modern times it is, as a rule, only the more important and larger urban districts which are so created, but a number of ancient boroughs have very small populations. Since 1888 charters have been granted to only two places having populations of less than 10,000.

The total number of municipal (non-county) boroughs in England and Wales in 1923 was 253. Their population (1921) varies from 954 to 87,659. Sixty-six have a population of under 5,000.

The governing body of a municipal borough is the *Town Council*, which consists of councillors and aldermen, the former being elected for three years (one-third retiring each year), the latter being elected by the council (from among their own members or from outside) for six years, one-half of them retiring every three years. The aldermen are one-third in number of the ordinary councillors. The total number of members of the council is fixed by the charter in each case.

The *Mayor* is elected annually by the council, not necessarily (though usually) from among themselves. He is not paid, but is sometimes allowed a sum of money out of the borough funds for the expenses of his office. The chief official is the *Town Clerk*.

The difference between an urban district and a borough is mainly one of dignity, the powers of the latter being but little more extensive than those of the former, except that a town council is often a police authority, which is never the case with an urban district. A borough has also a wider power of making by-laws, and the 20,000 limit of population for the exercise of certain functions (including control of elementary education) in urban districts is only 10,000 in the case of a borough.

## THE COUNTY BOROUGH

The Local Government Act of 1888 provided that certain of the larger towns, named therein, should be *County Boroughs* and, as such, should be independent of the county councils, and that thereafter any borough having a population of not less than 50,000 should be entitled to apply to be made a county borough.

An application of this description is inquired into by the Minister of Health, who, if he considers that it is justified, presents to Parliament a "Provisional Order Confirmation Bill," which must go through the appropriate parliamentary procedure to become an Act, including a hearing of all interested parties before the Committees of each House of Parliament or a Joint Committee of both Houses.

An alternative method of attaining the status of a county borough is the promotion by the borough of a Private Bill.

The number of county boroughs in England and Wales in 1924 was eighty-two, there being four with a population under 50,000, while the largest is Birmingham with a population of 919,444.

The constitution of the governing body in a county borough does not differ in any way from that in a non-county borough, but its powers are considerably more extensive, since it possesses, in addition, all the powers of a county council.

## THE COUNTY

The whole of England and Wales is divided into *Counties*, whose origin is a matter of early history. These are the "geographical" counties. An *Administrative County* is a geographical county (or in some cases part of a geographical county) less any county boroughs which may be situated in it.

There are sixty-one administrative counties (exclusive of London), whose area varies from about eighty-three to

over 2,600 square miles, and population (in 1921) from 18,376 (Rutland) to 1,745,959 (Lancashire).

Each administrative county has a *County Council*, consisting of councillors and aldermen, as in the case of a town council, but the chairman has no special title. County councillors are elected from every part of the administrative county, including the urban districts and boroughs, as well as the rural districts, but not from the county boroughs. The boroughs and districts are, for election purposes, divided into wards or districts, each of which elects one member.

The county councils usually meet four times a year, each meeting lasting one day only, but the work is carried on in the intervals by numerous committees and sub-committees.

The office of *Clerk of the County Council* is filled, *ex officio*, by the clerk of the peace, who is appointed by the standing joint committee (see under "Police").

The main functions of the county council throughout the administrative county are the maintenance of the principal roads and bridges, the care of lunatics, the provision of small holdings, the verification of weights and measures, and the supervision of certain public health matters. It is also the local education authority for higher education and for elementary education, except in the case of the larger towns.

The county council has certain powers of acting in default of a district council, if the latter neglects its duties with regard to sanitary matters, highways, housing or town-planning.

The creation of an urban district and the alteration of boundaries of districts or parishes are matters in the first instance within the jurisdiction of the county council.

#### LONDON

The *London County Council* is composed of 144 members, of whom 124 are councillors directly elected for three

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years and twenty are aldermen elected by the councillors for six years. Each electoral division of the county elects two members, except the City of London, which returns four. The council elects a chairman, vice-chairman and deputy-chairman annually. It usually meets once a week.

The powers and duties of the council include the maintenance of the main sewerage system, the fire brigade, the Thames Embankment, bridges (except those of the City Corporation), tunnels and ferries, parks and open spaces. It is the education and the town-planning authority. It executes large street improvements and administers the Building Acts and (concurrently with the metropolitan borough councils) the Housing Acts. It provides reformatory and industrial schools, lunatic asylums and inebriate homes.

The administrative county of London is divided into the City (having an area of 1 square mile) and twenty-eight metropolitan boroughs.

The *City of London Corporation* consists of 206 common councillors, elected annually, and twenty-six aldermen, directly elected for life. It is presided over by the Lord Mayor, elected annually by the Court of Aldermen (the only surviving example in England of a municipal second chamber) from among the aldermen who have served the office of sheriff.

The *Metropolitan Boroughs* have each a council of from thirty to sixty members, elected for three years, and aldermen to the number of one-sixth of the number of councillors, co-opted for six years. Each metropolitan borough council elects a mayor annually.

The metropolitan borough councils have like powers and duties to those of an ordinary town council, except such as have been conferred on the London County Council. The City Corporation, in addition to these powers, has control of its own police force, its own lunatic asylum, maintenance of city bridges, administration of extensive trust funds, and other powers and privileges of ancient date.

In connection with London, there are other representative bodies for different purposes connected with local government and having jurisdiction over different areas.

*The Metropolitan Water Board* consists of sixty-six members appointed for three years by the various London authorities and by the authorities for areas in the adjoining counties.

• *The Metropolitan Asylums Board* consists of seventy-three managers, of whom fifty-five are elected for three years by the metropolitan boards of guardians and eighteen are nominated by the Minister of Health.

*The Port of London Authority* consists of eighteen representatives of payers of dues, wharfingers and owners of river craft, together with ten appointed members. It is not an administrative local authority, its duties being concerned with the management of the docks.

*The London and Home Counties Traffic Advisory Committee* was established by the London Traffic Act, 1924. It is attached to the Ministry of Transport for the purpose of giving advice and assistance to the Minister with a view to facilitating and improving the regulation of traffic in and near London. It consists of nineteen members appointed by Government departments and local authorities.

#### FINANCE

The main source of revenue of all local authorities is the *rate*, which is a local tax based on the annual value of land and buildings. Agricultural land is assessed for all rates at one-quarter of its value only, a substantial grant in respect of the deficiency being made from the National Exchequer. Railways, canals, etc., also pay one-quarter only of the general district rate in urban districts, and of the special expenses rates in rural districts.

The rate is the only tax which any local authority can levy, but the amount of the rate is entirely within the discretion of each local authority, except in the case of a parish council (whose rate is limited to 3d. in the £ of



rateable value or, with the approval of the parish meeting, 6d. in the £ exclusive of expenditure under the Adoptive Acts) and a very few other instances of slight importance.

The body responsible for valuation and assessment for all local rates is the *Union Assessment Committee*, which is a committee of from six to twelve members elected annually by the board of guardians, from among their own number.

*Overseers of the Poor* (unpaid) and *Assistant Overseers* (paid) are appointed annually by each parish council or parish meeting in the rural districts, and in the towns either by the justices of the peace or by the town or urban district council. Their duties are no longer connected with poor relief, but they are responsible for preparing the valuation lists and collecting all local rates (including that for the county) with the exception of the "general district rate," which is levied and collected by the town or urban district council.

Appeals against assessment can be made to the assessment committee and from them to the court of quarter sessions.

The system of valuation and assessment, however, will be entirely altered if the Bill now (December, 1925) before Parliament becomes law. Under the proposals of this Bill the number of rating authorities in rural areas will be reduced from 12,882 to 648. The union assessment committees and the overseers will be abolished. Valuation areas will be set up, which, in the case of a county borough, will be the area of that borough, and elsewhere will be an area delimited by the council of the county, after consultation with the rating authorities in the county, and to be submitted to the Minister of Health for his approval. An assessment committee will be formed for each valuation area, appointed by the town council in a county borough and, in the case of a county, by the county council, the boards of guardians and the rating authorities in the areas concerned. There will also be a county valuation committee, which will include members of the

county council and of the various assessment committees in the area, to bring about standardisation. The authorities must prepare fresh valuation lists every five years, and this valuation will be the basis for all rating (*i.e.*, local taxation) purposes.

• The National Exchequer pays over to the local authorities certain sums from the proceeds of the liquor and other licence duties, the customs and excise duties and the estate (death) duties, in addition to the grant already mentioned under the Agricultural Rates Act, 1896. The latter grant amounted, for the year 1924-25, to approximately £4,283,000, the total "assigned revenues" for that year amounting to approximately £12,956,000. The local authorities also receive from the National Exchequer grants-in-aid for education, police, pauper lunatics, roads and certain public health services. These grants-in-aid are dependent upon the satisfactory performance of the duties with which they are connected.

Of the total expenditure met out of rates and State grants in the year 1919-20 (excluding other sources of revenue) the proportion of State grants for the various types of authorities was as follows :—

	Per Cent.
County councils . . . . .	48
County borough councils . . . . .	33
Other borough councils . . . . .	26
Urban district councils . . . . .	18
Rural district councils . . . . .	10

The only sources of revenue available to local authorities besides rates and State grants are fees and charges and profits from municipal enterprise.

Local authorities cannot, unless given special borrowing powers by a local Act, raise loans except with the sanction of a Government department—for most purposes the Minister of Health. Before sanctioning a loan, it is the practice of the Minister to be satisfied that the particular works are needed, that they are well and economic-

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ally planned and suitable for what is required, and also that the financial position of the district warrants the raising of a loan for the purpose.

The accounts of all local authorities except the majority of the boroughs are audited by *District Auditors*, who are permanent officials of the Ministry of Health. The education and housing accounts of the boroughs are similarly audited, but not their general accounts except on the application of the town council itself, or unless for special reasons the audit has been imposed on a borough. Otherwise, the borough accounts are audited by three auditors, of whom one is appointed by the mayor and the other two are elected from among persons qualified to be, but not being, members of the town council.

It is the duty of the district auditor, to satisfy himself that the accounts, as regards both income and expenditure, are correct ; that they conform with the Acts of Parliament and regulations governing the duties and functions of the various local authorities and that the balance sheets are drawn up so as to disclose the correct financial position. He has power to disallow expenditure contrary to law (including charges or payments which are unreasonable or exorbitant) and to surcharge the amount of any loss incurred through negligence or misconduct to the members or officials responsible. Appeal from surcharge lies to the Minister of Health or alternatively to the High Court. The Minister has power to sanction payments, where it appears to him desirable, even though they are strictly contrary to law.

The Minister of Health may at any time, after three days' notice in writing, direct the district auditor to hold an extraordinary audit of any accounts of a local authority which are ordinarily subject to audit.

### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—The “ sanitary authorities ” are the borough and the urban and rural district councils. These

authorities carry out their very extensive duties in accordance with the Public Health and other Acts. As for all other purposes, they appoint their own officials, but a full-time medical officer or sanitary inspector is removable only with the consent of the Minister of Health, and Government grants are made towards the salaries of those officials.

Public health and building by-laws must be approved by the Minister of Health. Urban, rural and "intermediate" models are supplied.

The three largest items of expenditure under this head are sewerage and sewage disposal, the collection and disposal of refuse, and hospitals, sanatoria and other institutions. Parks and recreation grounds, baths and wash-houses, and maternity and child-welfare come next.

The expenditure throughout the country by the sanitary authorities on public health services in the year 1919-20 was 13s. 3d. per head. Almost the whole of this expenditure is met out of rates.

County councils also have certain public health powers relating mainly to the provision of facilities for the treatment of tuberculosis and venereal diseases, the prevention of river pollution, the administration of the Contagious Diseases (Animals) Act, and the analysis of foods and drugs. They are also responsible for the supervision of midwives and, with the other authorities, for the initiation and execution of maternity and child-welfare schemes. County borough councils, within their own areas, exercise these powers as well as those of a "sanitary authority." A considerable proportion of the expenditure on some of these services is met by Government grants.

Every county council must appoint a *County Medical Officer of Health*, who must carry out certain duties prescribed by general order of the Minister of Health and such other duties as are assigned to him by the county council.

*Port Sanitary Authorities* are established for certain districts to guard against the introduction of infectious disease from abroad.

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For the purposes of the National Health Insurance Act, *Insurance Committees* are established for each county and county borough, consisting of from twenty to forty members, of whom three-fifths are representative of the insured persons, one-fifth are elected by the county or county borough council, and one-fifth are appointed medical practitioners and others. These bodies are not technically local authorities and have no power to raise a rate.

**EDUCATION.**—The administration of all forms of public education, other than universities and institutions of a similar type, is carried out by local authorities as a part of their regular functions, but under the regulation of the Board of Education, which is the central Government department.

The local authorities for elementary education are the councils of the county boroughs, of other boroughs over 10,000 population in 1901, and of urban districts over 20,000 population in 1901, elsewhere the county council. Elementary education functions include the school medical service.

The local authorities for higher education are the county and county borough councils.

Each council must appoint an *Education Committee* under a scheme approved by the Board of Education. Provision must be made for the appointment on the committee, on the nomination or recommendation of other bodies, of persons of experience in education and for the inclusion of women as well as men. Teachers employed in the schools may be members of the committee, although not members of the council. The council has power to delegate to the committee all its powers in regard to education, except the power of raising a rate or borrowing money.

The actual conduct of public elementary schools is supervised by *School Managers*, who are appointed by the local authority or, in the case of a school not provided by the local education authority (a "voluntary school"),

partly by the local authority and partly by the body of persons responsible for the establishment of the school.

More than half of the expenditure on public education is paid out of Government grants. Such of the remainder as is not met by fees, interest on endowments, etc., is provided by the rates.

**HIGHWAYS.**—County borough councils are responsible for all public streets and roads within their districts.

Outside the county boroughs, county councils are responsible for the "main roads," but this is an unscientific term meaning merely (in addition to "turnpike roads" existing in 1870) such roads as the county council itself has declared to be main roads; consequently, the extent of such roads in proportion to other roads differs widely in the different counties.

All public streets and roads other than "main roads" are administered by the councils of the boroughs, urban districts and rural districts.

The Ministry of Transport, which was established in 1919, has classified the roads of the country as follows :—

*Class I.*—The main roads or great arteries along which the main traffic flows.

*Class II.*—The most important thoroughfares other than Class I.

*Class III.*—Other roads and streets including all those of minor importance.

Government grants are given towards the cost of maintenance of roads in Classes I. and II., amounting in some cases to 75 per cent., but as a rule to 50 per cent. for Class I. and 25 per cent. for Class II. In addition, large grants are given for the construction of new arterial roads. The Minister of Transport will also pay half the remuneration of engineers or surveyors in charge of roads, on the condition that appointments and dismissals are subject to his approval. The whole of the funds administered by the Ministry of Transport are obtained from motor taxation.

Apart from Government grants, the expenditure of local

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authorities on the maintenance of roads is met out of the rates. Local authorities can also make new roads at the expense of the rates, but as a general rule the owners of land abutting on a road pay their respective shares of the cost of making it up to the condition required by the local authority, before the latter become responsible for it.

**PUBLIC ASSISTANCE.**—The English Poor Law dates from 1601 and the existing system of organisation and administration from 1834. Under this system, it is the duty of the Poor Law Authorities to afford relief at their discretion to meet the needs of any case in which application is made to them by or on behalf of a destitute person.

The local administration is by *Boards of Guardians*, which are elected for a term of three years by the local government electors for a parish or "Union" of parishes, which may or may not coincide with the area of any other local authority. In rural parishes the persons elected as rural district councillors are, as such, the members of the board of guardians for the union in which their district is situated.

The principal officials appointed by the board of guardians are the *Clerk to the Guardians* and the *Relieving Officer*.

Each board of guardians provides relief either at persons' homes or at institutions and may have a number of these under its control, with separate infirmaries for the sick, district schools, scattered and cottage homes and epileptic colonies.

The Minister of Health supervises the management of all matters relating to the execution of the Poor Laws in fairly minute detail by the issue of "General Orders" and by his inspectors and auditors, and his approval is required to the appointment and dismissal of officials.

The greater part of the expenditure of the boards of guardians is met by local rates, but assistance is given by Government grants-in-aid.

**POLICE.**—The City of London has its own police, which are under the control of the Common Council.

The County of London, exclusive of the City, together with a large area around it, is known for police purposes as the "Metropolitan Police District." In this district the police are directly under the Home Secretary and a Commissioner of Police.

Many boroughs throughout the country have their own police forces, which are administered by a *Watch Committee* of the town council, which must consist of not more than one-third of the members of the council, together with the mayor. No new borough force may now be established where the population is less than 20,000, and in practice a much larger population is required.

In the remainder of the country the police authority is the *Standing Joint Committee* for each county, consisting of a number of justices appointed by the court of quarter sessions and an equal number of members of the county council, the actual government of the police force being vested in a chief constable, who is appointed (subject to the approval of the Home Secretary) and removable by the standing joint committee.

One-half of the approved expenditure on the police is paid out of Government grants on a certificate from the Home Secretary that an efficient police force is maintained. The remainder is raised by rates.

In addition to the control exercised over the local police authorities by the medium of granting or withholding the Government grant, the Home Secretary's consent or approval is necessary for fixing or altering the numbers of men and officers, for establishing rules for the government and duties of the force (which rules must also be laid before Parliament) and for fixing scales of fees and allowances.

#### CONCLUSION

It will be obvious that the English system of local government differs fundamentally from that which is



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usual on the continent, in that there are no officials appointed by the central Government in any way concerned in its administration, and that the responsible authorities for all purposes are elected councils.

On the other hand, the English local authorities may not exercise any function for which they cannot show distinct statutory authority and they are therefore unable, for instance, to acquire land except for some definite purpose. This restriction on their public activities is not, however, so severe as it may seem at first sight, since the powers which are conferred on them by statute are very wide and further powers can be obtained by local Act. Moreover, the fact that there is no limit on the amount of rate which they may raise for expenditure on any purpose coming within their statutory powers is a freedom of another kind which is seldom possessed under other systems.

It is also to be observed that no sanction by a superior authority is needed for any of their financial proceedings, except for the raising of loans, and no investigation of any kind is made into them except at the audit after the closing of the accounts, unless in very exceptional cases.

The system of Government grants-in-aid, however, has in recent years led to an increased control over the local authorities by the central Government, since these grants are always given subject to departmental approval of the administration of the services so aided. This growth of centralisation has been due, not so much to any deliberate central policy, as to the local demand from the ratepayers that services which are predominantly national in character, although locally administered, shall be paid for out of national funds.

The variety in status of English local authorities and the constant desire for change from one status to another, and for the extension of boroughs and urban districts at the expense of the rural districts and of county boroughs at the expense of the counties, leads to difficulties which are not felt in those countries where all communes are on the same footing or where there is no rapid industrial

expansion and little migration of population from the country to the towns.

The gravity of this question led to the appointment, in 1923, of a Royal Commission, whose terms of reference include the making of recommendations as to the constitution, areas and functions of the various local authorities. In their first Report (published September, 1925) they recommend, *inter alia*, that the population which entitles a town council to make a proposal for the constitution of the borough into a county borough shall be 75,000 instead of 50,000, that in future all proposals for the creation of a county borough shall be by Private Bill and that the consent of electors at a town's meeting to the promotion of such a Bill be not required. They further express the opinion that, in connection with proposals for the extension of county boroughs, great weight should be attached to the wishes of the inhabitants of the areas proposed to be incorporated.

A Royal Commission appointed to consider whether any alterations were needed in the local government of London and the surrounding districts reported in 1923 and recommended the amalgamation, or union with larger areas, of some of the smaller local government districts surrounding London, and the appointment of a small advisory committee for London and the adjoining counties, which should advise the appropriate Minister in relation to town-planning, housing and main drainage. The recommendation, so far as it relates to transport, has been met by the establishment of the London and Home Counties Traffic Advisory Committee, but none of the other points have yet been dealt with.

A change in the system of valuation and assessment will be brought about by the Bill now (1925) before Parliament. The distribution of the remaining functions of the boards of guardians among the other local authorities has been contemplated for some time, and the present Government (1925) have declared their intention of dealing with the matter in the near future.

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### B. SCOTLAND

Whereas the methods of local government in Scotland are based on similar principles to those of England and Wales, the framework differs in some important respects, having developed on distinct historical lines.

#### THE PARISH

The *Parish* is the primary unit of local government, and may be either "landward" (rural) or "burghal" (urban), or partly one and partly the other, the larger towns being in some cases parishes of themselves, while the smaller ones are usually included, in whole or in part, with rural areas to form a parish. The total number of parishes in Scotland is 887.

An Act of 1894 established *Parish Councils* in place of the Parochial Boards which had been set up in the middle of the nineteenth century to take the place of the kirk sessions for the administration of poor relief. They are

primarily poor law authorities, and within the burghs exercise no other function, but, in the landward parishes, or the landward parts of mixed parishes, they possess most of the powers of an English parish council, including those of purchasing recreation grounds, providing allotments, establishing public libraries and protecting rights of way.

- The parish council consists of from five to thirty-one members, elected for three years. In a parish which is partly landward and partly burghal (*i.e.*, a portion of which is within the area of a burgh) the members of the council representing the landward part form a *Landward Committee* to carry out, independently of the council as a whole, all parish council functions other than those connected with the Poor Law. Where, however, the population of such landward part does not exceed 100, a landward committee is not to be constituted, except by order of the Scottish Board of Health on the application of not less than five parish electors residing within such landward part.

#### THE BURGH

The urban units of local government are known as *Burghs*, and are of three types :—

- (a) *Royal Burghs*, incorporated by Royal Charter. None has been so constituted since 1707.
- (b) *Parliamentary Burghs*, created under the Reform Act, 1832.
- (c) *Police Burghs*, constituted under the Burgh Police (Scotland) Act, 1892.

The royal and parliamentary burghs (numbering eighty-three in all) are entirely independent of the county council, except where the population is less than 7,000, or where they do not maintain a separate police force. As regards both status and functions, they correspond to the county boroughs in England and Wales.

The police burghs numbered 118 in 1924. They occupy much the same position as the royal or parlia-

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mentary burghs under 7,000 population, their functions being similar to those of an English non-county borough.

A police burgh may be created by the sheriff (who is the principal judge of the county). On the application of seven or more householders to fix the boundaries of a populous place, *i.e.*, a town, village or locality containing a population of 700 or upwards, the sheriff must give public notice of the application, hear any parties interested, and determine whether the populous place is in substance a town and is suitable to be formed into a police burgh. On a further application from seven or more householders, he must convene a meeting of householders and, if such meeting passes a resolution in favour of the proposal, the sheriff must declare the place to be a police burgh.

In all burghs the governing body is the *Town Council*, the members of which are elected for three years, one-third retiring annually. The council elects the *Bailies* and the *Provost*, who are equivalent, respectively, to the aldermen and mayor in England. They hold office for three years and are unpaid. In any burgh created after 1900 the number of councillors is to be from nine to ninety and of bailies from three to fifteen, according to the population.

### THE COUNTY

Scotland is divided into thirty-three counties, of which, in 1921, seventeen had a population of less than 25,000, and of these eight had less than 10,000.

The *County Councils* were established in 1889, taking over the functions of a number of previously existing authorities, including the commissioners of supply (a body consisting of all landowners in the county whose estates were worth £100 a year), the county road trustees, and the justices of the peace, so far as they were concerned with administrative duties. The members are elected triennially in the same manner as the English county councils, excepting the representatives of the

burghs, who are not elected directly, but by and from the town councils. These representatives may not vote on questions involving expenditure to which the burgh they represent does not contribute, or for which it is not assessed.

- The chairman, who is elected annually by and from the county council, is called the *Convener of the County*.
- The powers of the county council within the burghs are, briefly, that the county council manages the police in burghs with a population of less than 20,000, with some exceptions, and the roads in a few burghs ; provides for the reception of youthful offenders in reformatories and for the welfare of blind persons in burghs that do not maintain a separate police force ; makes up the valuation roll for all police burghs ; registers motor vehicles in burghs with a population of less than 50,000 ; and administers the Diseases of Animals Acts in burghs with a population of less than 7,000 or which do not return or contribute to return a Member of Parliament, and in police burghs. Their by-laws for the prevention of vagrancy and the suppression of nuisances may apply in burghs, but only with the consent of the town council. For services rendered to police burghs, the county council assesses the burgh as part of the county area.

Outside the burghs the county councils are the authorities in the first instance, as regards the whole of the county area, for the administration of all matters of local government other than poor law, lunacy, education, and the licensing of premises for the sale of intoxicating liquors, and they are indirectly concerned with these subjects also, excepting only the poor law, in that they appoint representatives on the lunacy boards and the licensing courts.

The actual exercise of these functions is largely delegated to subordinate bodies. Every county containing six or more parishes must, and counties having fewer parishes may, be subdivided into *Local Government or County Districts*, for each of which there is formed a

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*District Committee*, consisting of the county councillors for the particular area, with one representative of each parish council in the district.

Where a county is not divided into districts, the county council exercises the powers and duties of a district committee, and parishes are represented upon it for the purposes of those powers and duties in the same way as on a district committee.

The district committee, where such exists, is the local authority under the Public Health Acts, and is also responsible for the maintenance of roads and bridges.

The district committee must conform to general regulations made by the county council, and must report its proceedings to the council, but appoints its own officers, (though their salaries in certain cases are subject to the approval of the county council), regulates its own proceedings and has its own banking account, but cannot raise a rate or a loan or hold land. Ratepayers may appeal to the county council against a decision of the district committee, with certain exceptions.

Special areas within the district may be set up for various purposes, such as drainage, water supply, lighting, scavenging, or public baths. Action in this connection is usually taken by the district committee on a requisition from a parish council or ten ratepayers, although the district committee themselves, in the case of drainage and water supply, may take the initiative. The approval of the county council is usually needed, and there is an appeal to the sheriff by any ratepayer. If such an area is formed, a *Local Sub-committee* is appointed, consisting of representatives of the district committee and the parish council and inhabitants of the area concerned. The local sub-committees are under the control of the district committees, to which they must report their proceedings. There are about 400 such special districts in Scotland.

The *Standing Joint Committee* is a body composed of an equal number (not exceeding seven) of members of the county council and of the commissioners of supply for the

county, together with the sheriff. All questions relating to capital expenditure or the raising of loans by the county council must be submitted to this committee, whose decision is final. It is also the police authority in the county

#### FINANCE

As in England, the revenue of the local authorities is obtained mainly from rates and Government subventions.

The town council is the valuation authority in the royal and parliamentary burghs. The county council is the valuation authority for the area of the county, and levies rates to meet the requirements of the district committees and local sub-committees as well as those of the council itself.

The amount of rate which may be levied by the county council is unlimited, except that the public health rate for general purposes may not exceed 1s. in the £, and there are also limits on the special sewer and water rates, and on the rates leviable in special districts for lighting, cleansing and public baths, but these limits may be exceeded by permission of the Scottish Board of Health.

The burgh general rate is limited to 3s. in the £, the general improvement rate to 3d., and the burgh sewer and water rates together to 4s. unless the consent of the Scottish Board of Health is given to a higher rate. The public health rate in burghs for general purposes is limited to 1s. in the £. Parish councils are limited to a rate of 6d. in the £ in respect of the powers exercised by a landward committee.

Loans may be raised by county and burgh councils up to any amount (subject in the case of a county to the consent of the standing joint committee), with a few exceptions where the sanction of a Government department is required, or where there is a limitation under a Private Act or Provisional Order. They must, as a general rule, be repaid within thirty years. Education authorities



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require the sanction of the Scottish Education Department to raise loans for school buildings, etc.

Where the amount of money already borrowed by a parish council exceeds one-fifth of the Poor Law annual value, the consent of the Scottish Board of Health is necessary before another loan can be raised.

An institution which is peculiar to certain of the royal burghs in Scotland is that of the "Common Good." This consists of lands and other assets belonging to the burgh, but not the proceeds of any rate. The income from the Common Good may be devoted to any lawful purpose which the burgh council thinks fit, and loans may be raised upon the security of the Common Good without the restrictions which would otherwise apply.

Auditors of the accounts of counties and burghs are appointed by the Secretary for Scotland, of parishes by the Scottish Board of Health and of education authorities by the Scottish Education Department. The auditors have, as a rule, power to disallow and surcharge.

### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—As already indicated, district committees (subject to certain control by the county council) and burghs are public health authorities with full powers.

For the care of lunatics and mental deficient, *District Boards of Control* are appointed, consisting of representatives of the county and town councils within the district and a certain number of representatives of parish councils. The expenses are apportioned on the counties and burghs according to their respective valuation and met by a rate collected by the county or burgh authority.

**EDUCATION.**—From 1872 to 1918 education in Scotland was under the charge of school boards, usually set up for each parish and burgh. The Education (Scotland) Act, 1918, introduced an entirely new system of administration, establishing, for both elementary and

secondary education, an *Education Authority* for each county, including the burghs within it, excepting the four "scheduled burghs," Edinburgh, Glasgow, Aberdeen and Dundee, which were created education authorities themselves.

The members of the education authority, whose number is fixed in each case by the Secretary for Scotland, are elected by the local government electors. The date of election is fixed by the Education Department, "having regard to the circumstances and convenience of the education area," provided that, so far as is practicable and convenient, there is to be an election in every area once and not oftener in every period of three years.

Each education authority must prepare a scheme for the constitution throughout its area of *School Management Committees*, upon which parents and teachers must be represented, as well as nominees of local bodies, including town and parish councils; and also a *Local Advisory Council*, consisting of persons qualified to represent the views of bodies interested in education.

The education authority can raise money for its expenses by rate or loan, but a considerable proportion of its income consists of grants from the Treasury through the Education Department.

**HIGHWAYS.**—The county councils and burghs are the highway authorities for all classes of roads within their respective areas, the actual maintenance and management, in the case of the county, being in the hands of the district committees.

A statutory *County Road Board* (a committee of the county council) is formed in each county and acts as the executive of the county council in road matters.

**PUBLIC ASSISTANCE.**—The parish council, whether in burgh or county, is the sole poor law authority, and assesses and levies its own rates for the purpose.

**POLICE.**—The police authority in the burghs which have a population over 20,000, and in those with a population over 7,000 which maintained a separate police force

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in 1889, is the town council ; in the counties the standing joint committees. The pay, allowances, pensions and conditions of service of the police are, as in England, almost entirely regulated by Acts of Parliament or statutory regulations.

### CONCLUSION

It will be observed that the main distinction between the English and Scottish systems of local government is that under the latter there is an organic connection between the county council and the other authorities within the administrative county, in that district committees responsible to the county council occupy the place of district councils, and that these committees include representatives of the county councils on the one hand, and of the parish councils on the other.

Other important differences are that in Scotland education is administered by elected or nominated bodies entirely distinct from the local authorities ; that special boards are appointed to deal with lunatics and mental defectives ; that the parish councils are primarily poor law authorities ; that, with a few exceptions, county councils have no control over any roads within the burghs ; and that the county council is the valuation authority for the administrative county.

In other respects, the description of the working of the English system applies, in most of its particulars, to that of Scotland.

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### C. NORTHERN IRELAND

The separate Government of Northern Ireland was brought into existence by the Government of Ireland Act, 1920. This did not affect the local government institutions.

Before 1898 the principal local authorities in Ireland were the grand juries (for the counties), the boards of guardians and the municipal councils or town commissioners. There were no parishes, and the boards of guardians, which were primarily constituted for poor law purposes, exercised a number of local government functions.

The grand jury, the members of which were selected by the High Sheriff of the county, had taxing powers for many purposes within the boroughs, as well as in the remainder of the county.

Boroughs existed in Ireland from Anglo-Norman times, being modelled on the pattern of the English chartered boroughs. The same abuses arose as in England, and various Acts were passed to remedy them, especially the Municipal Corporations Act of 1840 and the Towns Improvement Act of 1854.

The Local Government (Ireland) Act, 1898, reorganised the whole local government system on very much the same lines as had been followed in England by the Acts of 1888 and 1894, except that in Ireland there were no parish councils or parish meetings, the minor unit being the county district.

No change in the actual framework of local government has been made since 1898, except as regards the administration of education, which was reorganised by an Act of 1923.

At the passing of the Government of Ireland Act, 1920, there were in Northern Ireland six counties, two county boroughs, thirty urban districts and thirty-two rural districts.

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### LOCAL AUTHORITIES

*Urban and Rural District Councils* were established by the Local Government (Ireland) Act, 1898, and are elected normally for three years. A rural district council may co-opt three additional members from among persons duly qualified to be councillors, such qualification being that the person must be a local government elector for the district and have during the whole of the twelve months preceding the election resided, and continue to reside, in the district.

The district councils are the public health authorities, and undertake public works so far as these are not undertaken by the county council for the county at large. Urban district councils may provide recreation grounds and public walks, but this, as well as certain of the public health powers, can be exercised by rural district councils only with the consent of the Local Government Board. These authorities have also powers to provide houses under Acts passed prior to 1920, supplemented by further Acts passed by the Northern Ireland Government.

All towns with a population of 6,000 or more, having been constituted urban sanitary authorities under the Public Health Act, 1878, became *ipso facto* urban districts under the Act of 1898. Towns having a population of over 1,500 may be so constituted by order of the Local Government Board.

The Local Government (Ireland) Act, 1919, provided that, where the population of a rural district is less than 4,000 and the rateable value less than £20,000, the Local Government Board shall, if conveniently possible, amalgamate it with an adjoining rural district.

The position of the *Boroughs* and *County Boroughs* in Ireland under the legislation of 1898 to 1919 was very similar to that of the same authorities in England. There are, however, no boroughs (other than county boroughs) in Northern Ireland.

There are four town authorities constituted under the

Towns Improvement Act, 1854. These bodies have not the full powers of urban district councils, and are mainly concerned with lighting and housing. •

The Act of 1898 established elected *County Councils* for each "administrative county." As in England, the administrative county includes the whole area of the geographical county except that of the county boroughs.

County councillors are elected for three years, the number being fixed by order of the Local Government Board. The chairman of every rural district council within the county (or, if he is otherwise a member of the county council or is disqualified, some other representative) is *ex officio* an additional member of the county council. The county council may also co-opt two additional councillors from among persons duly qualified.

The functions of the county councils include the construction and maintenance of main roads, the care of lunatics, the support of county infirmaries and fever hospitals, the administration of the Diseases of Animals and Destructive Insects Acts, and the provision of technical instruction. They can also make by-laws to have force throughout the administrative county and can adopt the Public Libraries Acts, their expenditure for that purpose being limited to the produce of a penny rate.

By the Local Government (Ireland) Act, 1919, proportional representation was introduced for all local elections in Ireland, but was abolished for Northern Ireland by an Act passed in 1922. The local government electors are the parliamentary electors (on the same basis as in England) for the area concerned, together with those persons who would, but for being peers or women or being registered as parliamentary electors elsewhere, have the parliamentary vote. Any local government elector is eligible for election.

#### FINANCE

The system of meeting the greater part of the expenses of local authorities by a rate on immovable property

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exists in Ireland as in England. In Ireland, however, the county council is the authority for making, levying and collecting the rates, not only for its own purposes, but also for the purposes of rural district councils and boards of guardians, and is the medium through which Government grants are paid to those bodies. County boroughs and urban districts levy and collect their own rates.

For the year 1921-22, of the total net revenue of county and town authorities, 86 per cent. came from local sources and 14 per cent. from Government grants.

### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—The Public Health (Ireland) Act, 1878, established the system of public health administration which is still in force in Northern Ireland. The urban and rural district councils are the public health authorities and have similar powers and duties to those of the same authorities in England, but various Acts passed since 1898 indicate a growing tendency to invest the county councils, rather than the minor authorities, with the administration of important health services.

**EDUCATION.**—The administration of education in Northern Ireland was reorganised by an Act of 1923, which declared the county councils and county borough councils to be the local education authorities for elementary education, with power to supply or aid the supply of higher education and generally to co-ordinate all forms of education.

In a county borough the council's functions under the Act are, with certain exceptions, to be carried out by an *Education Committee* of twenty-one members, a minority of whom may be non-members of the council.

In the counties the work must be carried out through *Regional Education Committees*, which must be established for a county district or a combination of county districts by a scheme framed by the local education authority and

confirmed by the Ministry, the membership of such committees and their mode of appointment to be settled by the scheme.

The local education authority may also provide for the appointment of *School Committees* for the purposes of local management, with such powers as the authority thinks fit. Where such a committee is appointed, parents and teachers must have representation upon it. The Ministry can require the establishment of school committees in certain circumstances.

HIGHWAYS.—The roads of Northern Ireland are classified by the Minister of Home Affairs. The Roads Act, 1923, placed on the county councils the sole responsibility for the maintenance of the first and second-class roads outside urban districts. The cost of all roads situated in an urban district are borne wholly by that district, that of first and second-class roads in a rural district by the whole of the rural districts in the administrative county, and that of the third-class roads situated in a rural district by that rural district ; but the Minister of Home Affairs may, on an application by a county or urban district council, make an order for contribution to or by a county or urban district council, by way of adjustment, in respect of first and second class roads.

PUBLIC ASSISTANCE.—The relief of the poor is carried out by *Boards of Guardians* on much the same principles as the English system. As in England, the members of the rural district councils are also members of the board of guardians for their district, the representatives of the towns on such boards being separately elected. The boards of guardians in Ireland have no rating powers, but obtain their funds from the county and urban district councils.

POLICE.—An Act of 1922 established a police force under the name of the Royal Ulster Constabulary on the same lines as the former Royal Irish Constabulary, directly under the Minister of Home Affairs. There are no municipal police forces.



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### CONCLUSION

The local government system in Northern Ireland is very similar to that of England. The non-existence of parishes, the financial dependence of the minor authorities, within the administrative county on the county council, the educational administration introduced in 1923 and the centrally controlled police force are the only differences of importance.

There appears to be an inclination to concentrate many of the services which are at present diffused over the smaller local authorities. The Northern Ireland Government has appointed a commission which is now (1925) sitting and hearing evidence on the subject of the reform of the poor law and local government services in the area.

### REFERENCES

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The Municipal Year Book (London).

### D. IRISH FREE STATE

The Irish Free State, established by the Treaty of 1921, which was implemented in legislation of the following year, inherited the system of local government set up for the whole of Ireland by the Local Government Acts of 1898 and 1919, described in the preceding section.

There are in the Irish Free State twenty-seven administrative counties, four county boroughs, five municipal boroughs, sixty-one urban districts, and twenty-four towns having town commissioners under an Act of 1854.

The Government is contemplating considerable changes in the system, and has already taken certain steps towards the establishment of local administration on a county basis for poor law and public health purposes. Heretofore poor law relief was administered by boards of guardians,

and the functional area was the poor law union. A reform of the system was effected by the Local Government (Temporary Provisions) Act, 1923, and local control has passed from the boards of guardians to boards of health, with the county as the unit of administration.

In matters affecting public health the rural district council was the sanitary authority, and the functional area was the rural district. The Local Government Act, 1925, has abolished rural district councils and transferred their powers and duties to county councils.

### THE COUNTY

In rural areas the county is now the unit of administration for all purposes, except in the metropolitan city and county of Dublin, where the former arrangements, including the system of poor law unions, remain for the time being. Legislation is expected to follow on the report of a Greater Dublin Commission, which is at present investigating the laws and practice affecting the administration of local and public utility services, including local representation and taxation, within these areas.

County councils may appoint committees for general or special purposes, which may be comprised partly of persons who are not members of the council, but any delegation of functions to a committee requires the approval of the Minister for Local Government and Public Health.

A county council may also, with the approval of the Minister, delegate any of its functions to such person or persons as the Minister shall from time to time appoint, until the next triennial election of county councillors, and may remunerate such person or persons out of the general funds of the council.

### THE BOROUGH

The Act of 1925 does not affect the constitution of the councils of boroughs or urban districts, but important

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changes are pending in municipal government. By means of special powers which have been conferred on the Minister for Local Government and Public Health, two of the chief elected municipal councils have been abolished and their powers and duties transferred to commissioners or city managers, on the American model. These appointments are at present limited to three years' duration.

### CENTRAL CONTROL

Under the existing law, the Minister for Local Government and Public Health has very wide powers of control. He may dissolve any local authority if after due inquiry he is satisfied that it is not duly and effectually discharging its duties or wilfully neglects to comply with any lawful order, direction or regulation of the Minister, or fails to comply with any judgment, order or decree of any Irish court, or that it refused after due notice to allow its accounts to be audited by an auditor of the Minister. On dissolving a local authority, the Minister may order a new election of members of such local authority or may transfer its property, powers and duties to any body or person he thinks fit. If a local authority is dissolved, a new election of members must be held within three years of the dissolution. The Minister may also apply to boards of health any existing enactments relating to county or district councils, with such modifications as he shall deem necessary, and make rules for carrying the Act of 1925 into effect.

### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—By the Local Government Act, 1925, each county is declared to be one rural sanitary district, unless the Minister for Local Government and Public Health shall, at the request of the county council, divide the county into two or more sanitary districts.

The *County Board of Health* consists of ten persons, who are elected by the county council from amongst their

members at the annual meeting of the council held next after a triennial election and hold office for three years. The board must meet at least once a month. It may appoint such committees as it thinks fit, which may consist partly of non-members of the board.

The money required to meet the expenses of the board of health must be supplied by the county council on an annual estimate by the board, but the latter is subject to such conditions or restrictions in relation to expenditure as the county council may impose with the consent of the Minister. The board must present to the council a half-yearly account of its receipts and expenditure and report of its works.

The Minister may add any urban district not being a borough to the adjoining health district.

Every county council must appoint a whole-time *County Medical Officer of Health* for the county district and for the urban districts within the county, whether added to a county health district or not.

The county boroughs, boroughs and urban districts are the sanitary authorities for their own areas.

**HIGHWAYS.**—Three types of road are recognised, namely—

- (1) *Main roads*—i.e., any road which the Minister declares to be a main road.
- (2) *Urban roads*—i.e., any road in an urban district except a main road.
- (3) *County roads*—i.e., any road in a county except main roads and urban roads.

The county councils are responsible for the construction and maintenance of all main and county roads, and the urban district councils in respect of all urban roads.

**EDUCATION.**—The whole question of education is at present (1925) under review by the Minister of Education.

**PUBLIC ASSISTANCE.**—The Local Government (Temporary Provisions) Act, 1923, has, as previously stated,

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aimed at the centralisation of poor law administration under one authority in each county. Workhouses have been abolished and steps are being taken to establish central institutions in each county suitable to the needs of the population. Separate accommodation is being provided as far as possible for the classes requiring special attention. Hospitals are being established in buildings apart from the county homes in which other classes of poor persons are relieved. The Act of 1923 has removed many of the restrictions on outdoor relief imposed by the Poor Law Acts, and poor persons may be relieved in or outside the county institutions as thought desirable. The reorganisation is not yet complete.

A commission is sitting (1925) to inquire into the whole question of poor relief, and the administration of the system set up under the Act of 1923.

**POLICE.**—There is one police force, known as the *Civic Guard*, throughout the whole of the Free State. It is paid for and controlled by the State, except that in the metropolitan area a police rate is still required to be levied by the local authorities. Under a recent Act this local rate will cease to be levied after a period of seven years.

### CONCLUSION

It will be observed that the whole local government system of the Irish Free State is in course of reorganisation, and that, pending its completion, the Minister for Local Government and Public Health is entrusted with extensive powers. Such changes as have been made up to the present clearly indicate a preference for large areas of administration.

### REFERENCES

As for Northern Ireland.

## CHAPTER XIV

### BRITISH OVERSEAS DOMINIONS

#### A. CANADA

THE government of the Dominion of Canada being on the federal system, that of the various provinces does not fall within the sphere of local government. Each province is at liberty to form its own system of local government, and has done so by a series of provincial Acts, together with, in some cases, the grant of special charters to cities.

The earliest instance of municipal government in Canada appears to have been in 1672, when the Comte de Frontenac ordered the election of three aldermen for the City of Quebec, the senior to be mayor and one to retire annually, the Governor reserving the right to approve or veto the appointments. The first city charters were those granted to Quebec and Montreal in 1832, and municipalities were created throughout Lower Canada in 1854.

The local government systems now in force in the various provinces were mostly created within the last fifty years, and in nearly every case amending or consolidating Acts have been passed since 1920. The systems are mainly based on modern English principles, but there are variations in detail, and a certain amount of American influence seems to have crept in, especially in recent years.

#### AREAS OF LOCAL GOVERNMENT

In most of the Canadian provinces there are still large areas of unorganised territory. In British Columbia less

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than 1 per cent. of the whole province is organised, and therefore over 99 per cent. of the area is directly under the provincial government. The first stage in organised development is the formation of *Rural Municipalities*, *Municipal Districts* or *Townships*—wide districts with scattered populations. In Alberta, for instance, each municipal district must, so far as practicable, comprise an area of 324 square miles.

As comparatively populous centres make their appearance within these large rural areas, they are formed into *Villages*, the requirement for the creation of a village being, for instance, in Manitoba, a population of over 500 within an area not exceeding 640 acres unless the population reaches 2,000, another 160 acres being allowed for every additional 1,000 population above that figure.

The next stage in development is that of the *Town*, the qualifications for which vary considerably; the minimum population in Manitoba being 1,500 and in Ontario 2,000, while in Saskatchewan (where the minimum population for a village is 50) it is only 500 and in Alberta 700. In British Columbia, the population of "District Municipalities," which may be said to correspond to towns, varies from 325 to 30,000.

The highest stage is the *City*, of which there are as a rule but few—six in Alberta, two in Nova Scotia, seven in Saskatchewan; but Quebec has as many as twenty, while British Columbia (which recognises a "city" with only 400 population) counts thirty-three. The minimum population for a city is in Saskatchewan 5,000, in Quebec 6,000, in Manitoba 10,000, and in Ontario 15,000.

*Counties* do not exist except in Ontario, Quebec, and Nova Scotia, and even there, as will be perceived later, their administrative importance is small. The cities are always excluded from them, and usually the larger towns also; in Ontario a town may be "separated" if it has a population of not less than 5,000.

All these local government units are known in Canada by the generic term of "municipalities."

Some other areas for general local administration are recognised in certain provinces—e.g., *Improvement Districts* in Alberta and *Unincorporated Village Districts* in Manitoba—as well as districts for special purposes, especially education.

#### ALTERATIONS IN AREA AND STATUS

The provisions relating to the creation of rural municipalities, villages, towns and cities are very detailed in the legislation of all the provinces, the limits of area and population of the different types being as a rule definitely fixed, but, subject thereto, the desire of a majority of the owners of real property in a specific area for the change is the predominant factor.

In Nova Scotia the area of the cities and municipalities is fixed by statute, and can therefore be changed by legislative action alone. The boundaries of any incorporated town may, on the petition of not less than two-thirds of the owners of real property in the district concerned, be enlarged or diminished by resolution of the town council subject to the approval of the Governor-in-Council.

In Ontario a district is formed into a village by the county council, if it has a population exceeding 750 and the requisite procedure with regard to application is followed. The promotion of a village to a town or of a town to a city is effected by the municipal board of the province.

In Manitoba and Alberta the Lieutenant-Governor is generally responsible for making such changes, though in the latter province the Minister of Municipal Affairs has power to declare as a village any portion of the province, the area of which is not more than 640 acres and which contains not less than twenty-five separate buildings.

#### CONSTITUTION OF LOCAL AUTHORITIES

The authorities for local government areas of every description, except the counties, are elected councils, the



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head of which is usually called *Mayor* in the cities and towns, and *Reeve* in the villages and municipal districts. Mayors are almost invariably elected by the ratepayers at large, but the reeve in the rural municipalities is frequently elected by the council from among their own members.

The number of councillors is usually from four to six in the rural municipalities, three or four in the villages, six in the towns, and from six to twenty or more in the cities. The governing body in the unincorporated village districts of Manitoba is a committee of three persons, who elect one of themselves as chairman.

In Quebec and some other provinces the constitution of the various city councils depends upon special charters. In Alberta, in particular, there is great variety. Thus, Edmonton has a mayor and ten aldermen with a number of appointed commissioners in addition. Calgary has a commission board in addition to its council, and in another case the complete American commission form of government has been adopted. A few of the Canadian cities have introduced the "city manager" system.\*

The term of office of councillors is usually two years, but in British Columbia the term is one year for towns and cities, and the same in Ontario unless extended by the council to two by resolution. In Nova Scotia the councillors for rural municipalities are elected for three years. The mayor or reeve is almost always elected annually.

The county councils in Ontario and Quebec consist of the heads of the various local authorities, the cities and "separated towns" in Ontario and most of the cities and towns in Quebec being excluded. The councils elect their own president, who is called a *Warden*.

In Quebec there is also, under the Municipal Code, a *Board of Delegates*, consisting of three delegates from each county, which meets whenever found necessary to discuss matters of common interest.

\* See U.S.A., pp. 280-282.

## PAYMENT OF MEMBERS

Local authorities have, as a rule, the power to pay their members either an annual salary or a daily attendance fee, together with a mileage travelling allowance.

In Ontario it is permitted to pay members of county and town councils up to \$8 per day, and 10 cents per mile travelling allowance each way. In cities under 100,000 population a fee of \$5 per day may be paid, and in cities over 100,000 population, a salary of \$500 per annum and an additional \$100 per annum to each chairman of a standing committee.

In Manitoba members of councils of rural municipalities may receive up to \$4 per day or \$60 per annum, with a travelling allowance of 10 cents per mile, the reeve \$200 per annum in addition. The mayor of a village may receive an annual salary of \$200, the mayor of a town or city \$500, and in a city over 10,000 population the mayor may receive \$1,200 and the aldermen \$300 per annum. No payments other than these are permissible.

## THE ELECTORATE

British nationality and the age of twenty-one are almost invariably the primary qualifications for local government electors, but in Saskatchewan persons who have attained the age of eighteen and are otherwise qualified are entitled to vote in the rural municipalities.

A certain term of residence (usually three to six months) is required, and also the ownership or occupation of assessable property, but it is frequently the case that the wife of a person so qualified, and sometimes his sons, daughters, father or mother, if resident on the property in question, are also entitled to vote.

The amount of property needed to qualify varies in the different provinces. In Manitoba the requirement is the ownership of real property of the value of \$100 or the tenancy of property of not less than \$200 capital or \$50 rental value. In Ontario an elector must be rated for

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land, freehold or leasehold, of the value of \$100 in villages or townships, \$200 in towns with a population not exceeding 3,000, \$300 in larger towns, and \$400 in cities, or for income from a trade or profession at not less than \$400. In the cities and towns of Quebec ownership or tenancy of real property of a capital value of \$200 or annual value of \$20 qualifies.

### ELIGIBILITY FOR MEMBERSHIP OF COUNCIL

The conditions of eligibility for membership of a local authority include the attainment of the age of twenty-one and British nationality and, in some provinces, the capacity to read and write English.

As regards property and residential qualifications, in Ontario any householder is eligible who resides within the municipality or who, being rated for lands in the municipality sufficiently to qualify as an elector, resides within two miles of it. In Alberta residence and ownership of freehold estate of the value of \$500 is necessary in the cities, residence within two miles and ownership of an interest in land of the value of \$100 in the towns, and residence alone in the villages and municipal districts. In British Columbia, besides registration for six months, the general rule is that a mayor must possess property of the value of \$1,000, aldermen \$500, a reeve \$500, and ordinary councillors \$250, but there are special provisions for homesteaders who have resided for one year and for holders of land under the Soldiers' Land Act and similar enactments.

In Quebec, under the Cities and Towns Act, a mayor or alderman must have been for twelve months previous to his election in possession of immovable property in the municipality of the value of \$600.

Most of the provinces have a long list of disqualifications, applying mainly to judges, officials of all kinds, convicted persons, and persons interested in contracts with the council. In some cases ministers of religion are

excluded. Non-payment of rates and taxes for the previous year is also a disqualification.

#### MEETINGS OF COUNCILS AND COMMITTEES

Council meetings must, as a rule, be open to the public, but the meetings of standing committees may be held in private. Most councils can appoint such committees, if they think fit, but in British Columbia committees are appointed by the mayor.

An interesting instance of a standing committee of an exceptional kind is to be found in Nova Scotia, in which province every local authority must appoint a committee of not more than five members, which is called the *Arbitration Committee*, and whose function it is to adjust the objects of municipal expenditure which are for the joint benefit of a number of authorities and to allocate the cost between them. Such objects are largely concerned with the administration of justice, but they also include the enforcement of the Public Health Act.

In some of the larger cities and towns of British Columbia and Ontario a *Board of Control* is appointed, the members of which (two in British Columbia, four in Ontario) are elected by a general vote, the mayor being an *ex officio* member and presiding. This board is practically an executive committee of the council, which can only reverse its decisions by a two-thirds majority. In Ontario the members of the board of control may receive salaries up to \$2,500 in the larger cities, and \$1,500 in the smaller, but in Toronto, with the assent of the municipal electors, \$5,000. In some of the cities of Quebec there is an executive committee on a similar footing.

#### POWERS OF MAYOR AND REEVE

The *Mayor* or *Reeve* occupies a position of considerable responsibility. Most provincial legislation contains provisions to the effect that it is the duty of the head of a local council to—

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- (a) be vigilant and active in causing the laws for the government of the municipality to be duly executed and obeyed ;
- (b) oversee the conduct of all subordinate officers, in the government of it, and as far as practicable, cause all negligence, carelessness and violation of duty to be prosecuted and punished ; and
- (c) communicate from time to time to the council such information and recommend to it such measures as may tend to the improvement of the finances, health, security, cleanliness, comfort and ornament of the municipality.

The power of the mayor is greatest in British Columbia, but in most provinces he has the right to suspend officials, subject to the power of the council to reinstate them, and it is not unusual for him to have a suspensory veto on resolutions or by-laws, which can be overruled by a subsequent vote of the council, which must sometimes be by a two-thirds majority.

### FUNCTIONS OF LOCAL AUTHORITIES

Although the various local authorities possess only such powers as are set out categorically in provincial Acts, the limits thus laid down are so wide as to be scarcely felt. Each local authority (other than county councils, where they exist) can exercise, at the least, all the functions considered suitable to its type in any European country, and usually has additional powers calculated to foster the development of agriculture or to assist industrial enterprises or the promotion of railways. Most of the cities and many of the other authorities own and operate their own electric light, water and tramway services.

In Quebec every council may make by-laws "to secure the peace, good government, health, general welfare, and improvement of the municipality," provided that they are not contrary to the laws of the Dominion or the province.

Among the subjects with regard to which all muni-

cialties in the province of Manitoba are authorised to make by-laws are public health provisions generally, aiding charitable institutions and indigent persons, preventing nuisances, building, public order and morality, protection from fire, regulation of streets, drainage and sewerage, milk and dairies, water supply, agriculture in general, fairs and markets, cemeteries, coal and wood supply, licensing of trades, etc.

In Saskatchewan a rural municipality has power, *inter alia*, to provide for the health of the community, to grant aid to the sick, to assist in the erection and maintenance of hospitals, to control cemeteries, to impose fines for light weight and short measure, to prevent cruelty to animals, to restrain animals from running at large, to prevent prairie fires, to license hawkers and pedlars, to regulate the speed of vehicles on highways, to grant aid to agricultural societies, erect municipal buildings and construct roads and bridges, while yet further powers are possessed by villages, towns and cities.

Town planning has been very generally recognised as a municipal duty. In Nova Scotia this duty must be carried out in every municipality by a special local board, consisting of the mayor or warden, two members of the council and not less than two ratepayers to be appointed by the local authority for a term of two years.

County councils in Ontario have jurisdiction over the main roads and highways and provide courts, gaols and other institutions mainly for judicial purposes. The county rates are collected by the local municipalities. In Quebec the county council deals with "all affairs of general interest for the municipal county," but this does not involve extensive functions. Among other matters it provides road rollers and other plant for loan to the smaller authorities.

#### FINANCE

Taxation based on the ownership or tenancy of land is the main source from which all local authorities obtain

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their revenue. In most provinces buildings are also taxed, but not so in British Columbia.

Personal property, businesses and income are also subject to local taxation in certain provinces.

In Alberta, in 1922, besides the taxation of land by all local authorities, twenty-nine towns and twenty-seven villages taxed buildings and improvements, twenty-six towns and thirty-one villages taxed businesses, and three towns and five villages taxed personal property. In Manitoba all kinds of property are liable to taxation with certain exceptions, which include schools, hospitals, agricultural stock and farm buildings.

In Quebec taxable property includes land, buildings and improvements and professional incomes. Local authorities may also levy taxes on stock-in-trade, businesses, etc., and a poll-tax of not more than \$2 on any person who has been resident in the locality for six months and is not liable to any other tax.

Municipalities may levy a local income tax in Nova Scotia, Ontario and Saskatchewan, exemption being granted as a rule up to \$2,000 for a married person or a widow or widower with children, plus \$200 for each child under eighteen, and up to \$1,000 for other persons. The levying of this tax, however, is not very widely practised.

The regulation of local taxation so as to assist agriculture and to encourage the establishment of industries, is largely practised. In Manitoba all farm buildings (including the farm residence), agricultural stock and agricultural improvements are entirely exempt, and any industry may be exempted from taxation, in whole or in part, for a period not exceeding twenty years, with the assent of the electors, or to an extent not exceeding 60 per cent. of the assessed value and for twelve years or less, without such assent. In Ontario "bonuses" may be granted by a vote of three quarters of the members of the council, and with the assent of two-thirds of the electors, for the promotion of industries or in aid of railways, in the shape of a total or partial exemption from municipal

taxation, the guaranteeing of a loan, the supply of water, light or power free or at special rates, or the undertaking of special works. In British Columbia taxation is confined almost entirely to land, with a view to encouraging the erection of buildings of all kinds.

Grants from the provincial governments are seldom given, except for roads and education.

In some provinces there is a statutory limit to the total amount of rate leviable for general purposes.

The raising of a loan usually requires both the assent of a majority of the electors and approval by the Governor. In Ontario, however, the purposes for which a council may raise a loan without obtaining the assent of the electors are fairly numerous, while a county council may in any year borrow \$20,000 over and above the amounts specially authorised. In British Columbia no provincial sanction is needed for municipal loans.

It is a very usual provision that the aggregate debt of a local authority must not exceed 20 per cent. of the assessable value of all property liable to local taxation.

Appeals against assessment are generally provided to special tribunals appointed by the respective councils, with, frequently, a further appeal to the county court, Local Government Board or other superior body. Auditors are appointed by the councils themselves, but in Saskatchewan may be appointed by the Minister.

The county councils in Quebec obtain their revenue from the constituent local municipalities by precepts in proportion to the estimated value of taxable real estate. The local municipalities are responsible for debts contracted by the county council. The total revenue of the county councils in 1921 was \$730,506.

#### CONTROL OVER LOCAL AUTHORITIES

The local authorities in Canada enjoy a very extensive measure of autonomy. No local authority has any sort of control over another, and although in most of the pro-



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vinces the Governor or a provincial department possesses supervisory powers in reserve, these are not in practice exercised to any considerable extent. Such as they are, they are mainly concerned with approval of financial proceedings, and especially of loans, but there are instances of further powers of intervention in municipal affairs.

Thus, in Nova Scotia the Governor may disallow any by-law or resolution, and may act in default of a local authority in certain cases. In British Columbia the Lieutenant-Governor in Council appoints an "inspector of municipalities," who may hold inquiries and make orders with regard to municipal affairs, 'there being an appeal from him to the Lieutenant-Governor in certain cases. In Alberta, the Minister of Municipal Affairs has certain powers of appointing or controlling the appointment of members of local authorities and certain by-laws are subject to his approval, and in Saskatchewan the Lieutenant-Governor may appoint all the members of the council in a rural municipality, while the Minister of Municipal Affairs and Local Government Board in the latter province and the Municipal Board in Ontario have further supervisory powers.

In Manitoba the Lieutenant-Governor may appoint three persons as a *Board of Commissioners* to investigate the financial affairs of a municipality on the requisition of the municipality itself, of one-half in value of its creditors or of twenty-five resident property-owners.

### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—The various municipalities are responsible, under the provincial departments of public health, for the care of the public health of their respective districts, but the administration is frequently carried out by specially appointed committees or boards.

In Alberta the city councils constitute *Local Boards of Health*, which must include the mayor, the city engineer, the medical officer, and three ratepayers who are not

members of the council. In the villages and municipal districts such boards will be formed of members of the council only, while in the unorganised districts boards may be nominated by the Minister of Health.

In Nova Scotia there must be in every incorporated town a *Local Board*, which may be the town council itself or a committee consisting of the mayor and not less than three members, together with the medical officer. In the rural municipalities, the council must annually appoint a board for each polling district, consisting of not less than five members, the councillor for the district being the chairman.

EDUCATION.—In all provinces except Quebec, education is paid for by the municipal councils, though the actual administration is carried out by special bodies, usually *Boards of Trustees*, consisting of three elected members for each school, district or section.

In Nova Scotia the *School Boards* in cities and towns are larger, and a minority of the members are appointed by the Governor-in-Council.

Cities, towns and villages are, as a rule, school districts in themselves, whereas the rural municipalities are divided into sections or districts as and when required.

In Alberta a school district may be formed not exceeding four miles each way, if it contains four persons assessable to taxes and eight children. In Manitoba a school district is formed wherever there are ten children in a section. There are 1,800 school sections in Nova Scotia. In Saskatchewan there are 101 town school districts, 351 in villages, and 4,089 in rural municipalities.

In Quebec there are two categories of educational institutions, catholic and non-catholic, the whole being under the Department of Public Instruction and a Council of Public Instruction, which consists of two communities, catholic and non-catholic. The province contained, in 1922, 1,746 "school municipalities," which do not always coincide with the ordinary local government areas. In each school municipality local school boards, catholic

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and protestant, are elected for three years, the religious majority in the district electing five "commissioners," and the religious minority three "trustees." These local bodies themselves impose local taxes for education purposes.

**HIGHWAYS.**—Primarily, the control of all roads rests in the province, but the provincial legislature may delegate the entire or partial control to the various municipalities. This is usually done, and as a result each municipality is, as a rule, responsible for all highways and bridges within its area, except where the responsibility is expressly reserved to the province or conferred upon another authority.

In Ontario a county council can assume jurisdiction over any highway or bridge not in a separated town, subject to the assent of the town, village or township in which it is situated. The county council is responsible for building and maintaining any bridge over a river, etc., forming the boundary line between the local municipalities other than a city or separated town (though this is not obligatory where the river is less than 80 feet in width), and for a bridge crossing a river or stream over 100 feet wide within a village, if part of a main highway.

The Ontario Provincial Government grants subsidies towards the construction and maintenance of roads as follows :—

	Per cent.
Local or township roads ..	20
Main market or country roads ..	40
Provincial country roads ..	60

The main trunk roads, or provincial highways, are constructed and maintained by the Department of Public Highways, the province bearing 80 per cent. of the cost.

The Provincial Government of Quebec grants subsidies to the municipalities under the Good Roads Act, 1912. The Government advances all monies required for road improvements, to be repaid by the municipalities by

forty-one annual payments of 2 or 3 per cent. Since 1918 the Provincial Roads Department can have all suitable work done on highways and commercial roads and recover the cost from the municipality.

The Department of Public Works of New Brunswick is responsible for the care of all highways in the province. To meet the cost the province imposes a street tax upon property and incomes known as the municipal road tax. It is collected by the municipality, and the amount raised must be used in each case for the roads of the parish in which it was collected.

In Nova Scotia the Minister of Highways has the management and control of all highways and bridges in the province other than those in incorporated cities and towns, the actual road work being carried out at the instance and under the supervision of the Provincial Highways Board.

In 1919 a Federal Act was passed by which 1,000,000 dollars was granted for making good roads. Each province was to receive annually for five years 80,000 dollars, plus a subsidy in proportion to population, and the period for the grant has since been extended to the 31st March, 1926.

**PUBLIC ASSISTANCE.**—The care of the indigent is, as a rule, a matter with which each municipality can deal under its ordinary powers, but, when large institutions are required, it is the usual practice for the provinces to provide them and to charge municipalities for the support and care of indigent persons from their respective districts.

In the Province of Quebec public charitable institutions, recognised as such by the Lieutenant-Governor in Council, are aided by subsidies. The provincial government pays up to one-third of the total cost of maintenance of an indigent person, and one-third is paid by the local municipality where the person has been domiciled for the six months preceding admission. Local or county municipalities may establish and maintain homes and refuges, hospitals, etc., for indigents. The produce of the local

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tax of 10 per cent. on places of amusement is divided equally between the local and the central public charities funds, and one-half of the proceeds of the poor tax and of the licences for places of amusement, and dues collected in respect of race-courses and batting, go to the same fund.

**POLICE.**—The councils of the various municipalities appoint such police as they require, but there is in addition a provincial police force in some of the provinces. This is the case in Ontario, where the provincial force was completely reorganised in 1921. The members of this force have full powers to act as constables throughout the province, but it is not usual for them to interfere with the work ordinarily coming within the jurisdiction of any municipal police force, unless co-operation is desired.

### CONCLUSION

The immense areas to be dealt with, the sparse population, and the constant creation of new communities in territories previously unorganised are all factors which render the local government problem in Canada very different from that in any European country. Whereas powers of control are reserved by legislation to the provincial authorities, it is generally felt undesirable at the present stage of development to check the initiative of any growing community by unnecessary government interference, and consequently local autonomy is in practice very considerable. At the same time, there is a certain tendency towards greater centralisation in some of the western provinces.

The financial question is an extremely difficult one, and the danger of uncovered municipal indebtedness very real. It is for this reason that most of the provincial statutes relating to local government contain numerous provisions with regard to debentures and sinking funds, that a limit is frequently placed on the aggregate permissible debt of a municipality, and that the assent of the electors and of the provincial authorities is required to a municipal loan.

It does not appear, however, that these precautions are as effective as might be expected, especially in the western provinces, and the question is one to which much consideration is being given.

A special organisation for the financial control of a number of municipalities is the Island of Montreal Metropolitan Commission, which was established in 1921. This body is composed of fifteen members, representing the City of Montreal, four other cities and eleven towns, a representative of the Department of Municipal Affairs being appointed by the Lieutenant-Governor in Council, but without the right to vote. This commission, which controls the borrowings of each of the municipalities represented upon it, and may itself borrow on their behalf, must apportion the loan charges and expenses so that they shall be borne entirely by the municipalities for whose benefit they have been incurred.

Educational finance is one of the most serious problems which Canadian municipalities have to face at the present day, especially in the west. It is being suggested in many quarters that this matter should be dealt with by the Dominion Government.

The opportunities which the English system of responsible elected councils gives to the public to take an active part in their own self-government do not, in the west, appear to be greatly appreciated. The mayor frequently has matters entirely in his own hands.

Interest in the subject of municipal reform is, however, active, while the local authorities themselves recognise the value of combination. In every province except Prince Edward Island, the municipalities have formed associations, and there is also a Union of Canadian Municipalities, founded in 1903, which covers the whole Dominion.

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- The Municipal Review of Canada (Montreal).*

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### B. AUSTRALIA

The development of local government in Australia has been influenced by the manner in which the country was colonised. The first settlers took possession in theory of the whole country and for practical purposes of as much land as they could explore. The colony thus formed was forthwith administered as a whole by a Governor in the name of the King. When in course of time the country was divided into several colonies, the central Government of each had immediate jurisdiction over the whole area. No local unit of self-government was spontaneously evolved independently of the central Government of the colony. Every local authority now existing in Australia is a creation of imperial or colonial legislation, that is to say, it is a subordinate body deriving its existence from a higher source.

Devolution of powers from the Colonial Government to local units naturally began in the oldest colony—New South Wales. The Governor was given power, on petition of the inhabitants, to form any sufficiently large and compact settlement into a municipality and to invest certain persons selected by him with limited local powers. But incorporation in this way was not eagerly sought by the inhabitants, and the number of municipalities increased very slowly.

When the need of local oversight of roads became manifest in the rural districts, provision was made for the appointment of local boards of trustees entrusted with powers to provide and maintain roads. By degrees wider powers were given to these bodies, and they developed gradually into rural local authorities.

With the formation of new colonies—Victoria, Western Australia and South Australia—in the middle of the nineteenth century, the central Government of each colony was given more extended powers to create local authorities, and a system of elected councils for each local government area was introduced. From time to time, new duties

were imposed upon these councils and additional powers vested in them.

In the early days of settlement, the incorporation of an area as a town or as a district was optional on the part of the inhabitants, but, in course of time, it became necessary to compel the adoption of some form of incorporation for local government purposes. The only exception to this rule was Victoria, the inhabitants of which everywhere voluntarily adopted the form of local government suited to their area, which was provided for by legislation.

#### AREAS OF LOCAL GOVERNMENT

The whole of the settled portion of Australia, with the exception of a few sparsely inhabited portions, is now divided for local government purposes into areas of two types, the one urban and the other rural. Both are governed by elected councils, having powers appropriate to their area. The two types are separate and distinct, but both come to a certain extent under the jurisdiction of the Governor.

The urban local government areas are variously styled *Cities, Towns, Municipalities* or *Boroughs*; their geographical area often includes large unbuilt-upon tracts of land, as well as land already covered with buildings. This is especially the case in the capital cities. In most states, the capital city is governed under a special charter, and does not come under the general legislation applicable to towns.

The definition of a "municipality," "town," "city" or "borough" varied in different states. In New South Wales a municipality must have a population of 1,000 and must not exceed 9 square miles in area. In four other states, a minimum revenue from rateable property is prescribed. A "town" may in most states style itself a "city" when it has had for five years a population of 20,000 and has a revenue of £20,000; no suburb may become a "city."

L.G.



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The rural divisions for local government purposes are generally called *Shires* or *Districts*, and are large incorporated areas of country, including small towns and villages.

Power to make alterations in the status and area of local authorities is vested in the Governor-in-Council in each state, but he can act only when moved by petition, except in Queensland, where he can take action on his own initiative on the recommendation of the Minister. The decision of the Governor is final.

Changes in status and area are frequent. The procedure is broadly the same in all the states, except that in Queensland there is no machinery for holding local inquiries.

### LOCAL AUTHORITIES

The local authorities for these areas are the *Town Councils* and *Shire Councils* respectively. The members of these bodies are elected for three years (two years in South Australia). In New South Wales and Queensland the whole council retires once in three years and a fresh election takes place on the same day, all over the state. In the other states, a proportion of the members retire every year and a fresh election takes place.

The local electorate—except in Queensland, where there is adult franchise—consists of owners and occupiers, male and female, above twenty-one years of age. In two states, the number of voters varies according to the amount of property held.

In three states, every citizen above the age of twenty-one is eligible for election to a town council ; in the remainder there is a property qualification, while in Tasmania male electors only are eligible. As regards shire councils, there is a property qualification in all the states but two.

The *Mayor* of a town and the *Chairman* of a shire council are, in some states, chosen by the members of the council ; in others, they are directly elected by the electors. The mayor and the chairman are entitled to preside over

the meetings of the council, but otherwise have no special powers.

The functions of local authorities are exercised in virtue of powers conferred upon them or duties imposed upon them by statute, that is to say, they can take action only where they have definite statutory authority. Some of their functions are obligatory, *e.g.*, the preparation of the assessment roll, the levying of a general rate and the carrying out of some duties under the Public Health Acts. But the majority of their functions are, in a legal sense, optional and cover a wide range of activities, especially in the larger municipalities. All local authorities have power to make by-laws relating to a variety of subjects.

## SPECIAL AREAS

Side by side with the local government areas mentioned, there are a number of special areas formed for particular purposes and administered by specially appointed bodies called *Boards* or *Trusts*. Many of these date from the time previous to the mapping out of the whole country into local government areas. They are concerned chiefly with the construction and maintenance of roads, works of water supply, drainage and sewerage, the provision of tramways, electricity, etc. Some boards and trusts are elected, others appointed; others again are partly elected and partly appointed. The election is sometimes by rate-payers, sometimes by local authorities. In a few instances trusts are appointed by the state government.

The tendency in all the states is towards larger areas of local government.

In New South Wales there are several examples of large areas which have been called for convenience "counties," formed for the purpose of serving some special local government need. Thus, four large municipalities have been formed into a county to carry out an electricity supply scheme. Another county, comprised of three shires and three municipalities, has instituted a large

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hydro-electric undertaking ; while eight shires and four municipalities have combined to cleanse and keep clear the bed of the river which flows through them. Advantage was taken of an amendment of the Local Government Act in 1919 to insert provisions for the formation of these counties.

In Queensland the metropolitan area of Brisbane for water supply and sewerage purposes comprises nineteen cities, towns and shires, while the tramway trust covers a smaller area.

### FINANCE

The revenues of local authorities are derived as follows :—

(1) Local taxation (the main source) ; *i.e.*, rates levied on the unimproved capital value of land \* as in New South Wales and Queensland, on the annual value of land and buildings, as in South and Western Australia, or on either at the option of the local authority, as in Victoria.

(2) State grants.

(a) In respect of roads (see section on Roads). These are given in all the states.

(b) In Victoria a sum is voted annually for the " endowment " of local authorities ; but since 1915 the amount has been considerably reduced, and is now distributed only to small towns and shires.

(c) In New South Wales grants are given towards the provision of public parks.

(3) Sanitary charges. Sometimes based on services rendered, sometimes charged as a rate on the unimproved capital value or annual value.

(4) Licence and other fees, market dues, etc.

(5) Rents of buildings.

\* Unimproved capital value is variously defined in the different states, *e.g.*

(a) the amount for which the land would sell in fee simple, allowing deduction for improvements ;

(b) the price at which the land might be expected to sell if unencumbered ;

THE (c) the fair average value of unimproved land of the same quality held in fee simple in the same neighbourhood.

(6) Profits on undertakings. In New South Wales these profits must not be used to reduce rates.

(7) Loans, the interest and redemption of which must be met out of rates. In New South Wales the limit of borrowing power in the case of municipalities is 20 per cent. of the total unimproved capital value ; in the case of shires the limit is three times the amount of one year's income.

Accounts of local authorities are subject to audit in most cases by locally elected auditors, but in Victoria by state inspectors. In New South Wales the qualifications of the elected auditors must be approved by the state. In South Australia the accounts of district councils are subject to inspection by state officials, although audited by locally elected auditors.

#### CONTROL OVER LOCAL AUTHORITIES

The Governor-in-Council of each state has considerable powers of supervision and control over local authorities, e.g., his approval is necessary to the raising of a loan, he has power to rescind resolutions, and all by-laws made by local authorities require confirmation by him. As regards many administrative acts of the local authority the decision of the Governor-in-Council is final.

Where joint action has to be taken by agreement between local authorities, the Governor-in-Council may, should the authorities not agree, issue an order constituting a joint board.

The control of the Governor-in-Council is exercised on the recommendation of the appropriate Department of State.

The Local Government Acts and the Health Acts reserve considerable powers of supervision and control to the departments themselves. In all cases where state grants are given for any service, that service must be carried on to the satisfaction of the department which recommends the grants.

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### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—Public health administration in Australia is divided between the Commonwealth Government, the various state governments, and the local authorities (municipal and shire councils).

The Commonwealth Department of Health, created in 1921, carries out research work, collects statistics, distributes any subsidies granted by the Commonwealth, educates the public in matters of public health, and generally co-ordinates public health measures. In most states there is a *Department* or *Board of Public Health* which supervises the work of local authorities in public health matters.

In New South Wales and Victoria, the area of the state has been divided into a number of districts, each covering a large area and including a number of towns and rural districts. In South Australia contiguous areas may be formed into a county district. Medical officers of health may be appointed by the governor for each of these districts, and their salary paid by the state. It is the duty of district (or county) medical officers of health to keep in close touch with municipal and shire medical officers and to advise and assist them, wherever necessary. Health officers may also be appointed for districts.

Medical officers of health may be appointed by local authorities; in New South Wales one-half of their salary is repaid by the state, but in every other state the whole salary is paid by the local authority. The appointment and dismissal of a medical officer must, in all the states, be approved by the Government.

The powers of local authorities in relation to public health are the same for municipalities and shires, except that in shires certain powers apply only to towns and villages and not to the open country. These relate generally to the cleanliness and sanitary condition of premises, the scavenging of night soil, the repair or demolition of unhealthy premises, the notification of

infectious diseases, the licensing and control of slaughter-houses, the prevention of smoke nuisances, the licensing of butchers' shops, etc.

In Victoria local authorities have powers in regard to the control of the sale of food and drugs, the supervision of dairies and the supply of milk, the supervision and care of infant life, and the medical inspection of school children. They must provide hospitals for infectious disease. There are no grants from state funds for health and sanitary work carried out by local authorities, except that one-half the cost of the provision of hospitals is borne by the state.

In Queensland, also, no grants are given to the local authorities by the Government towards health or sanitary work. Local authorities in that state have no powers with regard to food and drugs, venereal disease or vaccination.

The Commonwealth Government has endeavoured during recent years to bring about greater uniformity in the public health laws of the various states. The matter was discussed at the last Conference of Premiers (1924), when the states were invited to co-operate with the Commonwealth in framing uniform health laws for the whole country. The state governments declined to take joint action, and the Federal Ministry has therefore decided to appoint a Royal Commission to examine the distribution of responsibility between the Commonwealth, states and local authorities, and the common action which should be taken in such matters as food standards, the control of food and drugs, the pollution of surface waters in the great river basins, puerperal diseases, tuberculosis, infectious diseases, industrial hygiene, etc. The Commonwealth and the states will be represented on the commission.

**EDUCATION.**—Primary education, which is secular and free, is, in Australia, a function of the state, not of the local authorities. Secondary education is supplied by the state and also by various church institutions and by private enterprise. In New South Wales, local authorities have

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power to provide and maintain or to subsidise schools of art, mechanics' institutes, literary institutes, art galleries and museums.

**HIGHWAYS.**—In the older colonies, the making and maintenance of roads was the first purpose for which local governing bodies were created. In Western Australia the local government unit in the rural areas is still called the "Road Board." The state governments have always provided liberal sums for expenditure on main roads. Recently, the Commonwealth has instituted an annual grant, to be distributed among the states, towards the cost of constructing main roads. The grant for 1923 was £500,000 and for 1924 £1,000,000.

*New South Wales.*—The powers of municipalities and shires now include the care of roads and streets and the construction of new roads, the control of all roads (with the exception of those proclaimed as "national" and of those in the unincorporated areas) having been transferred in 1920 from the Public Works Department of the state to the local authorities.

In 1924 a *Main Roads Board* was formed which may make grants to councils to assist them in the construction and maintenance of main highways. The board may require all work to be carried out to standard plans and specifications. Dissatisfied councils may appeal from the board's decisions to the Minister.

*Victoria.*—The construction and maintenance of roads is the duty of local authorities, but in order to ensure that the work is properly carried out, a state body called the *Country Roads Board* was instituted in 1912. This board is vested with powers in regard to the construction and maintenance of main and developmental roads, similar in all respects to those possessed by municipal bodies; it has power to determine main roads, and may carry out permanent works if ordered to do so by the Governor.

State funds provide the entire cost of construction in the first instance, one-half being repayable by the local

authorities in instalments spread over a period of years. One-half of the cost of maintenance is borne by the state, the other half by the local authorities.

It is the present (1925) policy of the State Ministry to assume, through the Country Roads Board, the sole responsibility for the maintenance of certain arterial roads, to be designated state highways. It is proposed to increase the taxation of motor vehicles to provide the additional funds required and to empower country municipalities to tax horse-drawn vehicles if they wish.

*Queensland.*—Main roads are constructed and maintained by the *Main Roads Board*, which is a state department. The cost is found in the first instance by the state, one-half being afterwards charged to the local authorities as a loan. The annual charge in respect of the state's share of the loan liabilities (capital cost) is chiefly met by a tax on motor vehicles. Local authorities are responsible for roads other than declared main roads, but they receive no assistance from the state in respect of these local roads. There is provision for joint action by local authorities in the case of boundary roads.

*South Australia.*—Local authorities are responsible for constructing and maintaining roads, but they are supervised, in this matter, by the *State Roads Advisory Board* and assisted by Government grants. The board advises the Minister as to the distribution of grants, the works which shall be carried out, and also the amount which shall be expended by each authority out of revenue; this amount must not exceed one-half the total expenditure of the authority for all purposes.

Should a local authority not perform any work prescribed by the board, the state engineer for roads and bridges may carry it out and one-half the cost may be recovered from the local authority.

In the unincorporated areas roads are constructed and maintained by the Public Works Department of the state.

*Western Australia.*—The councils of the municipalities



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or districts control the construction, maintenance and management of roads within their respective boundaries. They receive subsidies from the Government in aid of this work.

The Governor may proclaim main roads and authorise any defects or want of reparation thereof to be made good by the state government.

*Tasmania.*—Local authorities are empowered to construct and maintain roads. The cost of construction is borne almost entirely by the state government. The cost of maintenance is borne by the local authorities with some assistance from the state government, chiefly by way of subsidy.

**PUBLIC ASSISTANCE.**—Local authorities in Australia have no duties in connection with public assistance. Hospitals for mental diseases are provided in every case by the state. General hospitals are provided by the state in one instance (Western Australia) and subsidised by the state in others. New South Wales has Government asylums for the infirm. Old age and invalidity pensions as well as maternity allowances are provided out of Commonwealth funds. Destitute children are cared for by state agencies and provided for out of state funds. No local poor rate is levied in Australia.

**POLICE.**—Municipal and district councils have nothing to do with the organisation or support of the civil police in any state. The police are appointed and controlled by a department of the state.

In New South Wales, and to some extent in other states, councils have power to appoint their own inspectors; such as health inspectors, traffic inspectors, beach-bathing inspectors, and the like. These officers perform duties which are somewhat of a police character, but that is the full extent of the powers of the councils in this respect.

The state police are, as a matter of administration, instructed to assist the councils by reporting breaches of the Local Government Acts and Ordinances.

## **CONCLUSION**

It will be observed that the principal points in which the Australian system of local government differs from the English are that in Australia there are only two types of local authority, mutually independent of one another, that education, public assistance and police are entirely state questions, and that the unimproved capital value of land is in some states the basis of local rating.

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## **C. NEW ZEALAND**

The Government of New Zealand as a British colony was established in 1840. From 1848 to 1875 the country was divided into provinces, the number of which was gradually increased, but in the latter year the provinces were entirely abolished.

In 1840 power was given to the first Governor, with the advice and consent of his Executive Council, to divide the colony into districts, counties, hundreds, towns, townships, and parishes.

The first legislation relating to municipalities was passed in 1842. A Municipal Corporations Act was passed in 1867, a Counties Act in 1876, and an Act for the creation of town districts in 1881, amended in 1908. The existing system is regulated mainly by the Counties Act and the Municipal Corporations Act of 1920, and by other Acts relating to special districts and boards.

## **AREAS OF LOCAL GOVERNMENT**

The main divisions of the country for local government purposes are the counties, boroughs and independent town

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districts, all other divisions being either parts of counties or a grouping of a number of adjacent districts of other types.

The total number of *Counties* is 129, with areas varying from forty to 4,420 square miles, and population from twelve to 25,765.

There are 118 *Boroughs* with areas from 113 to 16,180 acres, and population from 205 to 92,590.

The *Independent Town Districts* number forty-one, with areas from 285 to 2,020 acres, and population from 350 to 3,470.

There are also thirty-three *Dependent Town Districts* and a number of special districts for dealing with roads, rivers, water supply, drainage, tramways, railways, electric power, harbours, hospitals, fire, rabbits and gas-lighting. These special districts are constituted in some cases by the Governor-General, in others by the county council, according to the Acts relating thereto.

A town district may be constituted by the Governor-General on the petition of not less than two-thirds of the resident householders in any locality outside a borough not exceeding two square miles in area, in which no two points are more than four miles distant; and in which there are not less than fifty resident householders.

When a dependent town district attains a population of 500, the Governor-General may, on the application of the town board, give it independent status. When the population has increased to 1,000, it is usual to apply for incorporation as a borough.

The Governor-General may, on the petition of not less than one-fifth of the residents qualified to vote, proclaim as a borough any part of the Dominion comprising in a continuous area not more than nine square miles, having no points distant more than six miles from each other, and having a population of not less than 1,000.

A borough containing a population of 20,000 or more may be proclaimed a city by the Governor-General.

## LOCAL AUTHORITIES

The affairs of a borough are administered by a *Mayor* and *Council*, elected for two years. The number of councillors is from six to twelve, where the population does not exceed 30,000, and from twelve to twenty-one where it is above that figure.

The borough franchise may be possessed by any person who is twenty-one years of age or over and who either—

- (a) owns a freehold estate in land of the capital value of not less than £25 situated in the borough ;
- (b) is the occupier of any rateable property in the borough ;
- (c) has resided twelve months in New Zealand and for the previous three months in the borough ; or
- (d) has for the previous three months occupied a tenement in the borough of a rental value not less than £10 per annum.

Any elector may be elected to the office of councillor or mayor who is not an alien, of unsound mind, an undischarged bankrupt, convicted of an offence, or the holder of a place of profit under or concerned in a contract with the council.

Borough councils exercise wide powers of local administration under the Municipal Corporations Act and other statutes. These powers include the construction and maintenance of streets, drainage and ventilation, water supply, libraries, baths, cemeteries, workers' dwellings, the supply of gas and electric power and public conveyance.

In town districts a *Town Board* of from five to seven members, elected biennially, has much the same powers as a borough council, except that in the case of dependent town districts the county council has the control of the main roads and is entitled to levy a rate within the district up to 1½d. on the capital value.

A *County Council* consists of not less than six, nor more than twelve, members, there being at least one councillor

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for each of the "ridings" into which the county is divided. The council is elected triennially by the ratepayers, the value of rateable property determining the number of votes to which an elector is entitled. Where the value of the property does not exceed £1,000, one vote is allowed; over £1,000, but not more than £2,000, two votes; exceeding £2,000 three votes.

The principal function of a county council is the construction, maintenance and control of main arterial roads and bridges. They have also power to undertake water supply and drainage works, to supply electric lighting and power, establish markets, construct or acquire harbour works, erect workers' dwellings and initiate other public services.

The areas which are declared special districts for water supply, land drainage or other purposes, are administered for those purposes by small *Boards* elected by the electors of the constituent districts.

### FINANCE

The revenue of local authorities is obtained largely by means of rates, which may be levied on the capital, the annual or the unimproved value of property. The system of rating on unimproved value may be adopted only if supported by the ratepayers on a poll, which must be re-taken every three years.

Government grants are given, mainly for roads and bridges, and the local authorities obtain income also from licence fees, dog tax and rents.

Local authorities may borrow for the construction of any public work, the purchase of land or buildings, or for the purpose of engaging in any undertaking which they may lawfully enter into, provided that the consent of the ratepayers by means of a poll is first obtained. In 1919 it was enacted that a local authority may not borrow, except by way of bank overdraft, without the consent of the Governor-General-in-Council, and since 1922 a local

authority may not owe as an overdraft at the end of any financial year a sum exceeding the uncollected revenue of that year.

The State Advances Board is empowered to grant loans on debentures issued by local authorities, for a period not exceeding fifty years, for the construction of roads, streets, bridges, waterworks, drainage and sanitary works, and workers' dwellings, no authority to receive more than £60,000 within three years. In addition, the Governor-General may, on the recommendation of the Superintendent of the State Advances Board, guarantee the loan of any local authority, but the total amount so guaranteed for all bodies in one year must not exceed £2,000,000.

The audit of local authorities' accounts is carried out annually by Government inspectors.

#### CONTROL OVER LOCAL AUTHORITIES

Apart from the financial control already mentioned, the Governor-General has power to "do any act for more effectually carrying out the provisions of the Municipal Corporations Act either generally or in any particular case," and he may make such provision as he thinks fit in the case of default on the part of a local council, including the exercise of the powers of the council to make, levy and recover rates.

The Department of Health has powers of supervision in the matter of public health. An Act of 1910 provided for the confirmation of by-laws by the Minister of Internal Affairs, but did not make such confirmation compulsory.

#### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—The Minister and Department of Health (constituted in 1900) are advised by a *Board of Health*, of which the Minister is chairman and which includes representatives of the municipal and counties associations, medical practitioners and others—ten in all.

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The Dominion is divided into seven *Health Districts*, each of which is under the charge of a medical officer of health.

The Health Act of 1920 lays down the powers and duties of local authorities in the matter of public health, which include the appointment of sanitary inspectors, the regular inspection of the district, the abatement of nuisances, the making of by-laws and the furnishing of reports to the medical officer of health. On the recommendation of the Board of Health, the Governor-General may exempt any local authority, not being a borough council, from any or all of these duties. In these circumstances the Health Department becomes responsible for the care of the public health within the district concerned, all expenses incurred by the department being recoverable from the local authority in question.

The Board of Health may require any local authority to provide sanitary works within its district, the local authority having a right of appeal against such requisition to a *Board of Appeal*, consisting of a stipendiary magistrate and two assessors representing respectively the Board of Health and the local authority.

The district medical officer of health has very wide powers for dealing with outbreaks of infectious disease, and the Governor-General may make regulations on any matter affecting the public health. The Board of Health is empowered, in default of a local authority, to carry out sanitary works and exercise powers under the Health Act at the expense of the authority.

*Hospital Boards*, consisting of eight to twenty elected members, are appointed for special hospital districts, of which there are at present forty-four. These are further described under the head of "Public Assistance."

**EDUCATION.**—Education is treated as a national concern under the Department of Education, but special local bodies are established for purposes of local administration.

There are 2,550 *School Committees*, consisting of five,

seven or nine members, according as to whether the school attendance is under 100, between 100 and 200, or over 200, and elected annually from among the householders in the school district. The main functions of these committees are to see to the cleaning, heating and repair of the school buildings.

*Education Boards*, of which there are nine in all, are elected biennially by the members of school committees. They consist of six members representing the rural area, and for the urban areas two members for each 60,000 or part of 60,000 of the population. Any person who is twenty-one years of age and resides in the district, unless employed under the board, is eligible for election. It is the duty of these boards to establish, maintain and control "public" (*i.e.*, elementary) schools within their districts.

Separate boards for high schools and for technical schools are constituted by Order-in-Council.

The whole of the expenditure on education is met out of national taxation.

**HIGHWAYS.**—By an Act of 1922, a central *Main Highways Board* was established, the members being appointed by the Governor-General, and holding office during his pleasure. The Dominion was divided into eighteen *Highway Districts*, each composed of a group of counties. A *District Council*, consisting of a representative from each of the constituent counties and of the public works district engineer, has power to make recommendations to the board regarding the main roads in the district. Two-thirds of the cost of maintaining the highways and one-half of the cost of their construction are to be borne by the local authorities under such system of contribution as may be fixed by the board. The remainder will be derived from customs duties on motor tyres, licence fees on motor vehicles, and contributions from central funds.

*Road Boards*, with rating and borrowing powers, used to exist for special districts within the counties, and can



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still be constituted, under the Road Boards Act, 1908, by a county council on petition. They are, however, diminishing in number.

Apart from the highways administered under the Main Highways Board or a road board, the various local authorities are responsible for the construction and maintenance of the streets and roads within their districts. For the erection of new bridges and other capital expenditure, grants are made by the Government on a pound-for-pound or similar basis.

**PUBLIC ASSISTANCE.**—Hospital Boards (see under "Public Health") have power to establish and maintain charitable institutions of all kinds, may grant charitable aid to indigent, sick or infirm persons, and may provide medical, surgical and nursing attention for persons not inmates of an institution.

Levies on contributory local authorities and Government subsidies each form about one-third of the total receipts of hospital boards, the remainder being chiefly patients' fees and other refunds on account of relief. Capital expenditure is met by levy and subsidy in equal amounts. Where the expenditure is very heavy, boards may have to have recourse to loans, but, generally speaking, loans for long periods are discouraged, even the largest works being often arranged by the spreading of the expenditure over two or three years with the assistance of a bank overdraft if necessary.

### CONCLUSION

One of the most striking points about the local government system in New Zealand is the number of types of districts which are formed under general Acts relating to the various types, are usually administered for their specific purposes by elected boards, and in several cases possess rating powers.

The number of districts of each class in existence in 1924 was :—

Class.	Number.
Counties . . . . .	129
Boroughs . . . . .	118
Town districts (independent) . . . . .	41
Town districts (dependent) . . . . .	33
Road districts . . . . .	35
River districts . . . . .	34
Land drainage districts . . . . .	50
Water supply districts . . . . .	5
City and suburban drainage districts . . . . .	3
Tramway districts . . . . .	2
Local railway districts . . . . .	3
Electric power districts . . . . .	36
Harbour boards . . . . .	38
Main highway districts . . . . .	18
Hospital districts . . . . .	44
Fire districts . . . . .	37
Rabbit districts . . . . .	38
Gas-lighting districts . . . . .	1
Total . . . . .	665

In addition to these there are the nine education districts, and the 2,550 school districts for the administration of the national system of education and the seven health districts for the central control of public health.

A certain dissatisfaction with this large number of local administrative bodies and areas is showing itself. The reduction of the number of road districts from 320 (in 1883) to thirty-five, may be the first sign of a change.

#### REFERENCE

The New Zealand Year Book, 1925.

#### D. SOUTH AFRICA

The South Africa Act of 1909 provided that the British colonies in South Africa should be united under one government. These colonies were four in number;

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namely, the Cape of Good Hope, Natal, the Transvaal and the Orange Free State, and these are now the four provinces of the Union.

The constitution is definitely recognised as unitary and not federal. The establishment of the provincial councils was professedly intended as a measure of local government. It was described in the Report of the Provincial Administration Commission, 1917, as an experiment in the direction of creating a half-way house between a state parliament, in a federal system and a purely local government body.

### THE PROVINCE

At the head of each province is an *Administrator*, who is appointed by the Governor-General-in-Council for a period of five years. He has very extensive powers, which, however, vary in the different provinces. All executive acts relating to provincial affairs are done in his name. He may attend meetings of the provincial council, though without the power to vote, and is *ex-officio* chairman of the executive committee.

In each of the four provinces a *Provincial Council* is elected for three years, consisting of the same number of members as the province elects to the House of Assembly, but with a minimum of twenty-five. The council elects its own chairman ; it must meet at least once a year.

A provincial council at its first meeting elects four persons (not necessarily council members) to form, with the administrator, an *Executive Committee* to carry on the administration of provincial affairs on behalf of the council.

The provincial councils are authorised by the South Africa Act to make ordinances in relation to certain defined matters, which include the organisation of local government, roads and bridges, education, hospitals and charitable institutions, direct taxation for provincial revenue and "generally all matters which, in the opinion of the Governor-General-in-Council, are of a merely local or private nature in the province" and "all other subjects

in respect of which Parliament shall by any law delegate the power of making ordinances to the provincial council."

It is stated in the Report of the Provincial Administration Commission that "it is generally admitted both by those who favour the continuance of provincial councils and by those who take an opposite view, that if Parliament should otherwise provide in regard to education and remove it from the jurisdiction of provincial councils, the other matters left to them would not be sufficient to justify their continued existence."

#### AREAS OF LOCAL GOVERNMENT

Except in the Cape Province, local self-government exists only in the urban areas.

*Municipalities* or *Boroughs* are found in all four provinces. In the Cape Province they are usually restricted to areas with a rateable value of over £100,000. In Natal any township with a population of 1,000 may be converted into a borough by the administrator.

The *Village Councils* in the Transvaal, and the *Local Boards* in Natal would in some cases rank with the municipalities in the Cape Province and the Orange Free State.

Statistics of the municipalities in 1921 show :—

#### MUNICIPALITIES

	No.	Lowest Population			Highest Population.		
		Euro pean.	Other.	Total	Euro pean.	Other.	Total.
Cape of Good Hope	128	243	208	451	101,685	81,672	183,357
Natal	9	746	1,003	1,749	47,358	48,183	95,541
Transvaal	21	1,048	1,021	2,669	150,286	132,685	282,971
Orange Free State	55	205	100	305	17,711	18,780	36,491

At the same date there were fourteen local boards in Natal, twenty-eight village councils in the Transvaal, and five village boards of management in the Orange Free State.

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The Cape Province contains seventy-five *Village Management Boards* and about eighty-nine *Divisional Councils*. The latter were established in 1855, and cover the whole province. Their area varies from about 106 to over 18,000 square miles, but that of the majority is between 1,000 and 5,000 square miles.

Any portion of a divisional council (in the Cape Province) which develops into a hamlet or village may be formed into a *Local Area*, and the divisional council then acquires additional powers in respect of such area. There were thirteen of these in 1921. When the rateable value of a local area exceeds £20,000, a village management board is normally created.

In the Cape Province also *Local Board Areas* may be constituted in localities adjacent to municipalities where, by reason of their proximity to such bodies, it is not considered advisable to establish village management boards.

Alterations in the area or status of local authorities are made by proclamation of the administrator, who may or may not be moved thereto by a petition of the inhabitants. Inquiries may be held into proposals for the alteration of boundaries, but are not essential.

In the Cape Province a divisional council cannot be converted into any other form of local authority, but if a portion of the division is formed into a "local area," this would naturally develop into a local or village management board area, and these in turn into municipalities. Village management boards enjoy far larger powers than was the case up to 1921. These powers, being now very little less than those of municipalities, there is little likelihood of a village management board area being converted into a municipality unless very marked development is shown.

### THE ELECTORATE

The members of provincial councils are elected by the same electors as the Union House of Assembly. No Act has yet been passed by the Union Parliament dealing with

the qualifications of voters. The law of the Cape Province draws no distinction as to race and colour. In the other provinces the vote is given to Europeans only, except that in Natal there is a small number of native and Indian voters who were enrolled prior to the passing of legislation limiting the franchise in that province to Europeans. Subject to this, persons entitled to the vote are, generally, males of the age of twenty-one.

There is a property qualification for the franchise for municipalities and other local authorities in the Cape Province. For municipalities, property of the value of £100 to £500 carries one vote, £500 to £2,000 two votes, and £2,000 or over, three votes. Every person who is the owner or occupier of immovable property of the rateable value of £75 is entitled to vote for a divisional council.

In Natal any person of either sex over twenty-one years of age who owns property to the value of £50 or holds a tenancy of the annual value of £10 may vote for a municipality. A wife may have the vote on her husband's qualification if the property or rental suffices for two persons. There is no racial disability for the municipal franchise except that no woman of a race which did not, prior to 1914, possess the parliamentary franchise may be enrolled.

In the Transvaal every white person over twenty-one years of age who has resided within the area of a town or village for at least six months prior to the election may vote for the council.

#### ELIGIBILITY

Any person qualified to vote for the election of members of a provincial council is eligible for membership of the council.

Ownership or occupation of property of the assessed value of £500 is a necessary qualification for membership of a town council in the Cape Province, the limit being

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£500 in respect of a divisional council and £100 in respect of a village management board. Membership of divisional councils is restricted to male persons, but not that of other local authorities.

In Natal owners of immovable property worth £300, or tenants paying £48 a year in rent, are eligible for election to the municipalities.

### LOCAL AUTHORITIES

The head of a municipality is the *Mayor*, who is elected by the council and presides at the meetings. In the Cape Province the council may, with the consent of the administrator, make the mayor an allowance of from £25 to £1,000 a year, according to the rateable value of the property in the municipality. This money is to be spent by him on public hospitality.

Other local authorities similarly elect their chairmen, except that, in the case of divisional councils in the Cape Province, the civil commissioner or magistrate acts as chairman *ex officio*, unless the administrator declares otherwise, in which case the council at its first meeting elects a chairman to hold office for one year.

The period of office of members of local authorities is three years in the Cape Province and the Transvaal; two years in Natal.

Where a "local area" is formed by a divisional council in the Cape Province, the council appoints a committee of its members to administer it and may, with the approval of the administrator, add to the committee not more than two non-members who are resident in the area.

Local boards, for local board areas, consist of three members, two being nominated by the administrator and one elected.

### FUNCTIONS OF LOCAL AUTHORITIES

Municipalities have the powers usually possessed by town councils for the administration of their areas, while

local boards, village management boards, village councils, and similar bodies have somewhat more elementary powers and duties.

The functions of the divisional councils in the Cape Province relate to the maintenance of roads, bridges, pontoons and ferries, the destruction of noxious weeds, local rating, taxation of vehicles and public health.

#### FINANCE

Until the passing of the Financial Relations Act, 1913, the whole revenue of the provinces consisted of subsidies from the Union Government. Since 1913 the provinces have received an annual subsidy from the Union Government amounting to one-half of the estimated ordinary expenditure for the year, provided it does not increase at a greater rate than  $7\frac{1}{2}$  per cent. per annum, and one-third of any greater increase. Natal and the Orange Free State each receive, in addition, a special grant of £100,000.

The bulk of the remainder of the provincial revenue is obtained from transfer duty, liquor licences, general licences (including trading and vocational), motor licences, dog, game, fisheries and other licences, and school and hospital fees. In the Transvaal special sources of revenue exist in the pass fees for natives and the gold mining profits tax, while a poll-tax, introduced in 1921-22, is the item showing the largest produce in that year. In the Cape, Natal and Transvaal Provinces there are taxes on totalisators, while the latter province levies betting and bookmakers' taxes. The Cape and Natal Provinces and the Orange Free State obtain revenue from an entertainments tax, and in the Orange Free State some revenue is derived from auction dues and from a wheel tax, while in 1921-22 an "education tax" was introduced, which is practically an income tax. In the Cape Province a considerable revenue is obtained from the property tax.

The municipalities and other local authorities obtain their revenue mainly from rates on immovable property.



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Other sources are market dues, dog taxes, liquor, trade and vehicle licences and profits from municipal undertakings.

Every divisional council in the Cape Province which has been proclaimed a council entitled to a subsidy may claim from the administrator one-half of all expenditure by it from ordinary revenue and one-half of all interest and redemption charges on permanent authorised loans for the construction and maintenance of proclaimed roads. In addition, the divisional councils receive a proportionate share of the provincial motor tax, and any such council may also ask the administrator to proclaim the vehicle tax in force in the division.

In the Cape Province no municipality may levy a rate exceeding 4*d.* in the £ without notifying their intention to do so and, on demand, submitting the proposal to a vote of the electors, but in the case of a municipality having a rateable value exceeding £1,000,000 the administrator may authorise the council to levy a rate up to 6*d.* without consulting the electors. Village management boards are restricted to a threepenny rate and must submit their estimates to the administrator. The rates imposed by the village management boards in the Cape Province are collected by the divisional councils, which deduct 10 per cent. before handing them over. The divisional councils also collect on behalf of the school boards a rate not exceeding one-eighth of a penny in the pound.

Provincial accounts are audited by a Government auditor.

In the Cape Province two auditors are appointed annually for each municipality, one by the council, and one by the administrator. The accounts of other authorities in the Cape Province, and of all authorities in the other provinces, are audited by a provincial auditor.

### CONTROL OVER LOCAL AUTHORITIES

Control over the municipalities and other local authorities is exercised by the administrator either

personally or in executive committee of the province. The extent of this control varies in the different provinces, being far more considerable in the Cape Province than elsewhere. In that province the administrator's consent is required for the raising of any loan by a local authority, for the purchase, exchange, acquisition or leasing of land for any municipal purposes, for any schemes of water supply, sewerage, refuse disposal, etc.; he has also power to abolish any village management board or local board or to alter and redefine its boundaries. In the other provinces the administrator's powers are similar, but less extensive.

In the matter of public health the local administration is under the supervision and control of the Union Department of Public Health.

The provincial councils are distinctly subordinate to the central Government. The assent of the Governor-General-in-Council is necessary to the validity of any provincial law, and the Union Parliament can legislate on any of the same subjects as the provincial councils and, if it does so, such legislation is paramount. On the other hand, although the Union Treasury has to provide the funds for one-half of the expenditure in the Cape and the Transvaal, and even more in Natal and the Orange Free State, it has no control over that expenditure.

#### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—Public health is administered centrally by the Union Department of Public Health, which was set up in 1919 under the Public Health Act of that year. For the purposes of that Act local authorities are divided into two classes, urban and rural. An urban authority includes any municipal, borough, town or village council, or any town, local or village management board. A rural authority includes any divisional council or any body proclaimed to be a rural authority by the Governor-General-in-Council.

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It is the duty of every local authority, urban or rural, to take all necessary steps to prevent disease, to deal with any outbreak of disease, and to safeguard and promote the public health. Both urban and rural authorities may appoint medical officers of health and sanitary inspectors. Weekly returns must be made by every local authority to the Union Government of all cases of notifiable infectious disease. Government grants are made towards the salaries of medical officers, expenses of maternity and child welfare work and other services.

A local authority, or two or more local authorities acting jointly, may provide institutions for the treatment of persons suffering from tuberculosis ; half the cost of the equipment and maintenance of such institutions is borne by the Union Government.

Local authorities have power to enforce vaccination. They must take steps to ensure a supply of pure water, they must supervise the supply of milk and they have power to deal with unhealthy dwellings.

All divisional areas in the Cape Province in which there is a State-aided hospital are constituted *Hospital Districts*. In each of these districts a *Hospital Board* is set up, one-third of the members being elected by the divisional council and municipalities in proportion to the assessed value of rateable property in each, one-third by contributors, one-sixth by the honorary visiting medical officers, and the remaining one-sixth are appointed by the administrator. A hospital board is empowered to establish hospitals, maternity homes, sanatoria, convalescent homes, etc. Provincial subsidies are paid in respect of the hospitals within the district, equal in amount to receipts from voluntary contributions.

A number of hospitals, cottage hospitals, etc., are provided and controlled by the provincial administration of Natal. Other institutions receive assistance from provincial funds.

In the Transvaal a number of hospitals are directly maintained by the province, the management being in

the hands of committees appointed by the provincial administration. The town councils of municipalities can nominate hospital committees which have the general supervision and management of the institutions within their areas. Grants in aid are given to these and other institutions.

Public hospitals in the Orange Free State are administered by boards, one-third of the members of which are appointed by the town council, one-third by the administrator, and one-third by the contributors. Provincial subsidies are given and are equal in amount to the contributions.

EDUCATION.—Education, including primary, intermediate, secondary and technical schools, but not the universities, is in the hands of the provincial administration. In each province there is a provincial education department. Municipalities, divisional councils and other local authorities appear to have no powers or duties in regard to education. Universities are under the supervision of the Union Government.

In the Cape Province *School Districts* are set up by the provincial education department. There are 122 school districts in the Cape Province, each under the control of a *School Board*, two-thirds of the members of which are elected by the ratepayers and one-third nominated generally by the education department and municipal and divisional councils. School boards have the power to enforce school attendance. They may establish and maintain schools subject to provincial approval. Each school is ordinarily managed by a committee, elected by the parents, which supervises the school generally and appoints the teaching staff. In this province the teacher is a servant of the school board in which he works ; in the other three provinces he is a servant of the State.

The Transvaal is divided into thirty-one *School Districts*, for each of which there is a *School Board* consisting of six to twelve members, partly elected and partly nominated. The board advises the provincial department as

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to the provision of schools in its district. There are also *School Committees* consisting of not less than five and not more than seven members elected by the parents. Their duties refer mainly to the care of school buildings, but they have limited powers of recommendation as to the selection and temporary suspension of teachers.

The Orange Free State is divided into fifty-five *School Districts*, for each of which there is an *Advisory Board* consisting of nine members, of whom four are appointed by the administrator and the remainder elected by the *School Committees*. These committees are elected, for the supervision of each school, by the parents and must contain at least five members.

In Natal also there are *School Advisory Committees* in certain areas.

**HIGHWAYS.**—In the Cape Province main roads are constructed by the provincial administration and are afterwards maintained by the divisional council. Divisional roads are constructed and maintained by the divisional council. Other local authorities have power to construct and maintain roads within their area. The cost of main roads traversing a municipal area is shared equally by the divisional and municipal councils. Village management boards and local boards must contribute 10 per cent. towards the cost of maintenance of main or divisional roads within their area.

In the other provinces public main roads constructed by the provincial administration remain under provincial control. Municipalities and similar authorities have power to construct and maintain roads within their area.

In the Transvaal *Advisory Road Boards* are appointed by the administrator and consist of the local justices of the peace with the local magistrate as chairman. In Natal there are *Road Boards* in most of the magisterial divisions. They are elected by persons on the parliamentary voters' roll for the division and the magistrate is *ex-officio* chairman. Their duties are the hearing and deciding of all cases of dispute relating to the opening and closing of or

alteration to by-roads. They also have power to determine the costs to be borne by different parties in connection with the maintenance of a by-road, and may determine the width and direction of such roads within certain limits. In the Orange Free State there are *Road Commissioners* in each local area, who investigate applications to close, deviate or proclaim roads, but appear to have no further functions.

**PUBLIC ASSISTANCE.**—Provincial councils have power to legislate in regard to the distribution of relief and to expend the revenues of the province for this purpose. Considerable sums are disbursed by them under this head. They also make grants to various private institutions which relieve different classes of indigent persons, the chronic sick and infirm, the aged, orphans, etc.

**POLICE.**—The police are controlled entirely by the Union Department of Justice and local authorities have no powers with regard to them. Local authorities may, however, employ street keepers and special constables, and may clothe and arm these officers.

### CONCLUSION

It is clear that the system of local government in South Africa is by no means settled. Not only is the larger proportion of all the provinces except the Cape without any form of local authority for a smaller area than the province, but the continued existence of the provincial councils themselves has been seriously called in question. The Provincial Administration Commission, which reported in 1917, by a majority of five to one advised strongly in favour of their abolition, but Natal is strenuously opposed to this course.

The majority of the Commission recommended that, on the abolition of the provincial councils, the system of divisional councils (to be called *Rural Councils*) should be extended to the Transvaal and the Orange Free State, but that the magistrates should not be members of these

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councils, which should select their own chairmen. All municipalities should be excluded from divisional council areas both as regards liability to be rated and the right of representation.

As intermediate bodies between the divisional (or rural) councils and the Union Parliament, the Commission recommend the establishment of directly elected *District Councils*, consisting of at least twenty-five members, which should be the sole main road authorities both in municipal and rural areas and also the local education authorities. They should be administrative and in part executive bodies in connection with public health, responsible to the Union Government for all public health matters within their areas. The larger municipalities, and especially those employing a full-time medical officer of health, would come under the direct control of the Union Government, but the other municipalities and rural councils would be health authorities subordinate to the district council. The district councils would be responsible also for the administration of certain Acts, such as the Food Adulteration Acts, Weights and Measures Acts and other matters.

It is suggested that the Cape Province should be divided into seven district council areas, averaging 39,566 square miles each; the Transvaal into four, having areas varying from 646 to 75,881 square miles; the Orange Free State into two, measuring respectively 23,347 and 27,042 square miles; while Natal (exclusive of Zululand) would be treated as one area, with an extent of 24,866 square miles.

No action has yet been taken as a result of the Commission's report, but the financial relations between the Union Government and the provinces have been modified from time to time, and a fresh Bill for this purpose was introduced in 1925.

A Local Government Commission of the Transvaal, which reported in December, 1921, examined the existing system of divisional councils in the Cape Province and

did not recommend it for adoption, since they objected to the concentration of power in the administrator's hands, the inclusion of municipalities in divisional council areas and the financial provisions and franchise. The Commission, however, recommended that the whole province should be cut up into areas for local government purposes and be administered by town or district councils, the size of the area to be placed under a district council being dictated by the community of interests of its inhabitants and facilities of access to a common centre. Village councils and health committees should be treated as town councils *in posse*, the district council exercising all the powers of a town council on their behalf and delegating to them such powers as may from time to time seem advisable, until they shall have reached the stage of development when they can be invested with full powers of self-government.

The Transvaal Provincial Council are (1925) proposing a new municipal elections ordinance which will, *inter alia*, reduce the number of town councillors, fixing the minimum at six and the maximum at eighteen; will provide for proportional representation, each municipality being deemed to be one ward; and will require the election, by proportional representation, of executive committees, consisting of not less than three members or more than one-third of the whole council, whose remuneration will be fixed by the council.

#### REFERENCES

- Official Year Book of the Union of South Africa.
- Reports of the Provincial Administration Commission, 1917.
- Report of the Provincial Finances Commission, 1923.
- Report of the Local Government Commission, 1921 (Province of Transvaal).

#### E. BRITISH INDIA

Local government in ancient India is a subject of great historical interest, and relics of the organisation of the

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primitive village community are to be found even to-day and have their influence on the existing system. None the less, it must be understood that this local autonomy of ancient times did not include the modern principle of election, while on the other hand it was largely based on a principle which is no longer recognised, namely, the responsibility of the whole of the community for the action or inaction of any individual member.

The modern system of local administration in India, established since the government of the country was taken over by the British Crown in 1858, is difficult to describe on the same lines as have been followed in this volume in the case of other countries, for the reason, not only that it differs in the various provinces, but that in the country as a whole it is in a state of development of necessity gradual and sporadic, in view of the characteristics of the various types of the population and the degrees of readiness to accept and of capacity to administer modern methods of local self-government.

Moreover, the constitution of India is not of a federal nature, as in the case of Canada and Australia. It was stated in the Report on Indian Constitutional Reforms, 1918, that "the government of the country is at present one; and from this point of view the local (*i.e.*, provincial) Governments are literally the 'agents' of the Government of India." Although this position has been modified by the reforms introduced by the Government of India Act, 1919, it still remains the fact that the government of British India is not a federation, and it therefore follows that, if our definition of local government for the purposes of this volume is to be adhered to, some account of the provincial organisation must be included.

### LOCAL STATE ADMINISTRATION

In India, in contradistinction to any other part of the British dominions, there exists, side by side with the

system of local self-government, a local State administration for certain purposes, which may be said to be imposed from the top downwards. Whereas this organisation is mainly for the collection of State revenue and for judicial purposes, it will be seen that it does also touch purely administrative matters and therefore comes properly within our subject.

Every province is composed of *Districts*, which in all provinces except Madras are combined, in groups of usually from four to six, into *Divisions* under a *Commissioner*. The average size of a district is 4,430 square miles. Each district is under the charge of a *Collector*, but is cut up into subdivisions under assistant or deputy collectors, and these again into yet smaller areas.

The actual working of the district organisation is described in the Report already cited as follows :—

“The district officer has a dual capacity ; as collector he is head of the revenue organisation, and as magistrate he exercises general supervision over the inferior courts, and in particular directs the police work. This organisation in the first place serves its peculiar purpose of collecting the revenue and of keeping the peace. But because it is so close-knit, so well established, and so thoroughly understood by the people, it simultaneously discharges easily and efficiently an immense number of other duties. It deals with the registration, alteration and partition of holdings, the settlement of disputes, the management of indebted estates, loans to agriculturists, and, above all, famine relief. Because it controls revenue which depends on agriculture, the supreme interest of the people, it naturally serves also as the general administration staff.

“The revenue officials, and to a much more limited extent the police, convey the orders of Government to the people in a hundred ways. Taken together, these two agencies act as the general representatives of Government over the country to its remotest borders, and apart from them there is no other. Several other specialised services exist with staffs of their own, such as the estab-

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lishments for irrigation, roads and buildings, agriculture, industries, factories and co-operative credit. These are controlled not by the district officer, but by their own departmental heads ; they may be regarded as a different set of strings connecting the Government with the people. But in varying degrees the district officer influences the policy in all these matters, and he is always there in the background to lend his support, or, if need be, to mediate between a specialised service and the people."

Since this was written, the administrative activities of the collector will have been modified in those parts of the country where district boards are functioning, but the organisation above described continues to exist and acts in administrative matters where the new bodies have not been established.

### PROVINCIAL SELF-GOVERNMENT

It is not proposed to deal here with the Native States, which, whereas they are in " India " and are under British suzerainty, are not part of " British India." In British India there are eight major provinces, whose area (excluding dependent Native States) ranges from 97,000 to 170,000 square miles and population from nine to 51 millions of inhabitants. Three of these provinces, Madras, Bombay and Bengal, are known as *Presidencies*.

The Government of India Act, 1919, introduced a reformed system of provincial government—the so-called " dyarchy "—under which its sphere is divided between two authorities, one amenable to the British Parliament and the other to the Indian electorate.

At the head of each major province is a *Governor* appointed by the Crown. For the purposes of certain " reserved " subjects the Governor is assisted by *Executive Councillors*, not more than four in number, also nominated by the Crown, one of whom must have the qualification of twelve years' service.

Most of the subjects of provincial administration,

however, are "transferred" subjects. As regards these matters the Governor works with nominated Ministers, each Minister having charge of certain departments.

The *Legislative Council* of the province comprises not more than 20 per cent. official members, and at least 70 per cent. elected members. Its normal duration is three years, but it may be dissolved sooner by the Governor or its term may be specially extended for one year. The actual number of members of the legislative councils in 1920 ranged from fifty-three in Assam to 118 in Madras.

The "transferred" subjects, with which the legislative council deals, include local self-government, public health, education, public works, and water supply, famine relief, agriculture, registration, excise, industrial development and police.

In the minor provinces, of which there are five, there are no legislative councils, the provincial administration being in the hands of Chief Commissioners.

#### THE VILLAGE

According to the census of 1911, there were in British India 538,809 towns and villages, of which 403,983 had a population of less than 500 and twenty-six of 100,000 and over.

The unit of local self-government in the greater part of India is now, as from time immemorial, the *Village*. The Report of the Royal Commission on Decentralisation, 1909, shows that at that date there still existed many survivals of the ancient forms of government. The principal village functionaries—the headman, the accountant and the village watchman—were largely utilised and paid by the Government.

In Madras, where village officers were usually hereditary, the village headman, besides being responsible for the collection of the revenue and for the maintenance of order, had also petty civil and criminal powers. In Bombay there was a single headman (or patel) in the

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smaller villages, exercising revenue and police functions. In Assam there were assemblies of village householders styled *mels*, who elected their headman subject to the approval of the deputy-commissioner or sub-divisional officer, these headmen being recognised by Government, reporting vital statistics and being supposed to assist the police.

Some of these and other similar survivals in different provinces still exist, but in many parts development of village self-government on more modern and Western lines is taking place as a result of the Act of 1919 and the action taken under it by the provincial legislative councils.

Attempts have been made to revive the *panchayat*, which was for centuries the governing body of the village in the United Provinces, the Punjab and the Frontier Province. This body consisted of the heads of the superior families. Although the name is derived from 'panch,' meaning "five," the body so called is not limited to that number.

The Punjab Government in 1921 passed a Village Panchayat Act, enabling the Government to establish such a body in a village, or group of villages, with powers to settle local disputes and provide for the sanitation of villages. The first panchayats under this Act were established in July, 1921, and by the end of March, 1922, their number had risen to 5,650.

The Governments of Bihar and Orissa and of the United Provinces have introduced similar measures.

Apart from the village organisation, so far as it at present functions, local self-government in the rural areas is carried out in almost every district of British India, except in the province of Assam, by *District Boards*, subordinate to which are two or more *Sub-district Boards*, while in Bengal, Madras and Bihar and Orissa, there are also *Union Committees*.

The total number of district boards throughout India in 1919-20 was about 200, with 532 sub-district boards subordinate to them. Of the members of these boards

57 per cent. were elected and 95 per cent. of the whole membership were Indians. Some 17 per cent. of the total members of all boards were officials. The total number of union committees in the same year was about 1,022.

In 1919, a Village Self-government Act was passed in Bengal embodying the policy of constituting union boards at the earliest possible date for groups of villages. The total number of such boards in Bengal exceeds 2,000. The proportion of elected members of each board must be not less than two-thirds, and the chairman is elected from among the non-official members.

A similar tendency towards the establishment and increase of district and sub-district boards, mainly elected and unofficial, is showing itself in practically all the provinces.

#### THE MUNICIPALITY

A charter of incorporation was conferred upon Madras as early as 1687, and in 1726 a mayor's court, with aldermen but no burgesses, was established by royal charter in each of the three "presidency towns" (Bombay, Calcutta and Madras). A number of Acts have been passed amending the constitution in each of these towns.

Outside the presidency towns there was practically no attempt at municipal legislation before 1842. In 1883-84 Acts were passed which greatly altered the constitution, powers and functions of municipal bodies, and these are very largely in force at the present day.

Under these Acts the municipal government was vested in a body corporate composed of municipal commissioners or councillors and styled the *Municipal Council*, *Municipal Committee* or *Municipality*. The proportion of elected members on these bodies and the rules for election were fixed by law in the various provinces. The chairman or president was sometimes nominated by the local (provincial) government, but more often elected by the commissioners.

•In the year 1921-22 there were some 751 muni-

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cipalities in British India. Of these, about 546 had a population of less than 20,000 and sixty-eight of 50,000 and over.

Considerably more than half of the members of these municipalities are elected. *Ex officio* members in 1921-22 were roughly 8 per cent., and nominated members, who, as a rule, represent special interests, 27 per cent.

### FINANCE

The most important item of revenue of the district boards is provincial rates, levied on the annual value of land.

In the municipalities, nearly two-thirds of the revenue is derived from taxation and the remainder from municipal property, contributions from provincial revenues and miscellaneous sources. The principal sources are octroi, taxes on houses and lands, animals, vehicles, professions and trades, tolls on roads and ferries, and water, lighting and conservancy rates.

Octroi is levied only in the Punjab, the United Provinces, the Central Provinces and Bombay. In these provinces it is the principal source of revenue, and in the Punjab it yielded (in 1900-1) more than 90 per cent. of the total municipal taxes.

The total ordinary revenue of municipalities for the year 1919-20 amounted to £7,515,457. The principal headings were :—

	£
Tax on houses and lands ..	1,597,487
Octroi .. ..	1,219,826
Water rate .. ..	829,989
Grants from Government ..	646,679

### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—The provincial governments, the district boards, the municipalities, and in certain provinces the village panchayats have powers to deal with the

sanitation of their respective areas. Except in the larger cities, however, the attitude of the masses of the people towards sanitary regulations is such that comparatively little has been accomplished.

It is stated in the official report for 1923-24 that "towards the improvement of these conditions co-operation is already accomplishing something. The reformed local governments are also directing attention to sanitary measures and to the prevention of epidemic diseases. In Bengal, for example, every district board, save one, possesses a fully qualified health officer, under whose guidance a large amount of useful work has been initiated. Local bodies in general are devoting increased energy to sanitation, but their efforts have been handicapped by financial difficulties. Public attention is, however, being gradually aroused to the importance of the whole matter. Organised propaganda work is commencing in rural areas through magic lantern lectures, concert parties, informal talks with villagers and the distribution of pamphlets and leaflets prepared by the Public Health Departments. Perhaps the happiest augury for the future is to be found in the increasing attention now devoted to public health work in the more advanced provinces by voluntary agencies."

**EDUCATION.**—The problem of primary education in India is a tremendous one. According to the census of 1921 only 122 per 1,000 of Indian men and 18 per 1,000 of Indian women could read and write. The difficulties in the way of its solution are many—the immense population, the poverty of the masses, the age-long traditions, the conflict of races and religions, the caste system, the vast distances and inadequate means of communication, the lack of teachers and especially the non-availability of women teachers, the absence of the honorary services and personal interest of the wealthier and better-educated classes.

Most of the primary schools are administered by municipalities and district boards, or by private persons



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or bodies. Many of these private institutions are indigenous schools which have been brought to conform to the requirements of the Education Department, others are schools of a more modern type started by native proprietors, while others again belong to various missionary societies.

The recent transfer of the educational organisation to the charge of popular Ministers has resulted in the encouragement of many developments which were slowly shaping themselves under the older system, and the proceedings of the local legislatures show that educational activity is increasing.

Even before the transfer, Primary Education Acts had been passed in many provinces, permitting local bodies to introduce, under certain conditions, the principle of compulsory education, but although most of the provincial governments have now passed such measures, there seems to be a general reluctance on the part of municipalities and boards to put them in force.

Secondary and university education are, comparatively speaking, more strongly supported. Boards for secondary and intermediate education have been set up in various parts of India, and progress is being made, as rapidly as the financial situation allows, with the constitution of intermediate colleges at suitable centres.

As regards public expenditure on education, this has risen from about £1,000,000 in 1890 to nearly £8,000,000 in 1920, the latter amount consisting of £6,000,000 from provincial funds, about £1,500,000 from local, and £500,000 from municipal funds.

**PUBLIC ASSISTANCE.**—As Mr. Matthai puts it, “apart from individual charity, the work of poor relief in an Indian village under normal conditions may be said to be distributed between the family, the caste and the village community.”

On the occurrence of famine, action is taken by the Government, which makes use for the purpose of existing village institutions and, also constitutes a special com-

mittee or panchayat in every village of suitable size, these agencies being closely supervised by a Government officer set in charge of a circle of villages.

POLICE.—There is a regular police force under each provincial government and, allied with it, the ancient institution of the village watch.

Each village has its *chaukidar* or watchman, who is appointed by the district magistrate under various systems of local nomination. The village watchmen are remunerated in some provinces by allotments of land and payment of fees, in others this system has been abolished and monthly salaries are paid from a fund formed by a cess on land or houses and from the revenue derived from the old landed endowments.

#### CONCLUSION

To compare with the administrative organisation of industrial Western nations that of the vast area of British India, with its population of 247 millions, of whom all but some 200,000 are Indians of various races and religions, with their own habits and customs unchanged for centuries, of whom less than 10 per cent. live in towns and less than 4 per cent. are being educated, whose whole social system, it has been said, is "designed to facilitate, not the production or accumulation of wealth, but the preservation of certain traditional ideas," and in whom there exists a "deep-lying religious sentiment which causes the vast majority of Indians to regard their present lives as relatively unimportant in the great fabric of past and future"—to compare conditions so completely dissimilar would be a futile task.

It seemed, however, undesirable to omit altogether from this volume any mention of the Indian Empire, and therefore the foregoing brief sketch has been given of a system which has an intense interest of an entirely different nature from that of the other countries here dealt with. In each of those countries, to a greater or less extent, a

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capacity and a desire for local self-government on modern lines may be assumed to exist. Among the vast masses of the Indian population there is no such capacity or desire. The present organisation is intended to offer the opportunity for their satisfaction, if and when they appear, and in the meantime to provide an administration of public education, public sanitation and such other public services as will gradually improve the social and economic conditions of the people.

That the reforms introduced by the Government of India Act, 1919, are already bearing fruit is evident. The Governor-General, Lord Reading, when opening the fourth session of the Council of State and the first session of the Second Legislative Assembly, on January 31st, 1924, said, "Representative institutions are being built up on a firm basis," and declared that "the policy of the reforms in India was introduced with the approval of all political parties in England, and all stand committed to it as the fundamental policy in relation to India of His Majesty's Government, however constituted."

At the same time it must be admitted that objections are made in many quarters to the present provincial organisation. A "Reforms Inquiry Committee," appointed by the Government of India in 1924, has reported, the majority recommending a number of amendments in the law, while the minority advocate more definite and more immediate steps towards provincial autonomy in a federal system.

The type of local government which it was hoped would follow from the reforms may be gathered from the report by Lord Chelmsford and Mr. Montagu which heralded them.

"There should be," they say, "as far as possible, complete popular control in local bodies, and the largest possible independence for them of outside control." They point out, however, that "it is impossible to ignore the past, and at once to create a perfect scheme out of the present uneven materials," and, further, that in view of

the policy of provincial autonomy the development of the local government system must be left mainly to the provincial governments.

Subject to this, it is suggested that "it is of the utmost importance to the constitutional progress of the country that every effort should be made in local bodies to extend the franchise, to arouse interest in elections, and to develop local committees, so that education in citizenship may as far as possible be extended and everywhere begin in a practical manner."

It will be observed, from the short account given above, that the provincial governments are, generally speaking, acting on these lines. In such a country progress is necessarily slow and Western methods and ideals may often be inappropriate, but it is open to the provincial governments to adapt these as they think best to the local circumstances and traditions of each community.

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## CHAPTER XV

### THE UNITED STATES OF AMERICA

THE local government system in the United States differs from state to state in so many of its details that it is impossible to do more in a short space than give a general account of the most outstanding features. Each state government frames its own system of minor authorities, in accordance with provisions in its constitution where such provisions exist—otherwise at its own discretion.

The usual types of local authorities are :—

- (1) Towns, townships or districts.
- (2) Boroughs or villages.
- (3) Cities.
- (4) Counties.

The main distinction between the systems in the different states lies in the extent to which they are divided into counties on the one hand and towns or townships on the other, and in the relative importance of the larger and smaller areas. It is important to note that in America a "town" or "township" is a rural area, which may, however, include small urban agglomerations (boroughs or villages) within it, being, indeed, similar in character to the English rural district. All areas which would be known in England as cities, boroughs or towns, are in America called "cities."

The origin of the various types of local authorities in the different states depends of course on historical causes. Thus, the original settlers in New England brought with them the English system of justices of the peace for a county, together with a "town meeting" of all the inhabitants of a district. The Dutch and Spanish colonies followed the forms at the time in force in Holland

and Spain respectively. California introduced from Mexico the French system of prefect and sub-prefect, but little save modifications of the English system has now survived.

After the English conquest of the New Netherlands, the New England system was extended to those colonies, with certain variations, and spread rapidly through the northern states. The establishment in the west of "congressional townships" of a uniform area of 6 square miles, in 1783, stimulated local self-government in that region for the time.

Since 1860 the main features of the northern system have been introduced into the south, but the very different character of the southern states, especially the desire to prevent the negroes from exercising the vote, resulted in a modified form of development.

Mr. Kirk H. Porter has classified the states in four groups according to their county and township organisation, thus :—

- (1) New England states. The town the chief unit, the county being the administrative unit for a few purposes only.
- (2) Southern states. Highly developed counties, exercising practically all functions of local government.
- (3) North-central states. The township clearly defined with important local government functions, exercised independently of the county, and being also the unit of representation on the county board of supervisors.
- (4) South-central states. The township subordinate to the county, having virtually no independent functions, but being practically an administrative district of the county.

In all parts of the United States the city has developed side by side with the county and the township, but it has usually been as completely subordinated to the state as any other local authority, and, although it has distinct

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powers, it almost always forms an integral part of the county in which it is geographically situated.

As regards the constitution of local authorities, the American system has, until lately, been one of checks and balances, the legislative, executive and administrative departments being made as separate and independent of each other as possible.

Great importance was, from early times, attached to the principle of popular election, but this attached to the election of paid officials rather than to that of representative assemblies. Local boards were established for the different types of areas, but they were always composed of a very small number of members and had little control over the officials, who were many in number, were elected for short terms on party tickets, and were largely paid by fees.

This system still prevails to a considerable extent, but there has latterly been a strong movement for local government reform. In this movement, however, efficiency and the exclusion of political influences are the matters mainly considered. Interest in local self-government itself is declining in the rural districts, but advancing in the cities, and there is now a tendency towards increased state supervision and direct state administration so far as the rural areas are concerned, while, as regards cities, the trend is rather in the opposite direction.

### THE ELECTORATE

Generally speaking, the local government franchise, like the state franchise, is now based on the principle of universal adult suffrage, but in a large number of states only those electors who pay taxes on real property are allowed to vote at special elections called to decide certain questions such as the raising of a municipal loan. No New England charters have a property requirement.

The age of twenty-one is universally adopted as a qualification. In all but seven states American citizen-

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ship is another. This cannot be acquired by an alien until after not less than five years' continuous residence in the United States and the fulfilling of a number of formalities.

The requirement as to residence varies from state to state. In Massachusetts a year's residence in the state and six months in the city is required ; in Pennsylvania, a year in the state and two months in the city ; in Michigan, six months in the state, with no definite term of residence in the city.

In nearly one-third of the states some sort of educational qualification is laid down, the usual test being that voters shall be able either to read or write or to do both, exemptions to prevent hardship being granted in all cases except Connecticut. The educational test, and the exemptions in some of the southern states are, however, expressly designed for the exclusion of negroes from the suffrage.

The party organisations for electoral purposes are legally recognised, not only by regulation of the " primaries " or elections within each political organisation for the nomination of candidates, but in the majority of cases on the ballot papers for the elections themselves. The " preferential vote " system has been adopted in a number of cities, but proportional representation has been tried in only very few instances.

### THE INITIATIVE, REFERENDUM AND RECALL

These institutions, which play an important part in American local government, are defined by Professor Munro as follows :—

" By the initiative is meant the right of a definite percentage of the voters in any municipality to propose charter amendments or ordinances, and to require that these shall be submitted to the people at either a regular or a special election. If such a proposal obtains at the polling a majority of the votes actually recorded upon it, it becomes effective.



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"By the mandatory referendum (or the protest as it is sometimes called) is meant the right of a stated proportion of the voters to demand that any ordinance passed by the city council shall be withheld from going into force until the opinion of the voters can be expressed upon it at a regular or a special election. If a majority of the votes polled upon such an ordinance is in the negative, the ordinance does not go into effect.

"The recall . . . may be defined as an agency through which an official may be removed from his post before the end of his term."

The initiative and the referendum have been adopted in a large number of states and cities and have been put into practice to a considerable extent. They are most common in the western and southern states. Portland, Oregon, submitted fourteen questions at a regular election in 1913 and fifteen more at a special election in the same year. The San Francisco ballot of November, 1916, contained twenty-six questions. However, a much more moderate use is customary.

A list of over 100 questions submitted to the voters of twenty American cities during ten years shows that a large proportion of the measures proposed by the initiative deal with changes in the municipal constitution or with franchises, but a variety of matters, among them the widening of a street, the rebuilding of a bridge, and the adoption of a new system of assessment, are included.

The recall has not as yet been very widely acted upon. It usually applies to elected officers only, but in some cities to appointed officials as well. The quota necessary for putting the proceeding in motion is usually from 15 to 25 per cent. of the total number of votes polled at the last election.

Out of 167 city manager charters, 109 provide for initiative, referendum and recall, nine for initiative and recall, two for initiative and referendum, and one for referendum and recall.

### THE TOWN AND THE TOWNSHIP

The main distinction between counties and towns or townships (both of which, it must be remembered, are rural areas) is that the former cover larger areas than the latter. Though both types usually exist in the same state, one will often be of very slight importance. The latter is always a unit of the former.

The *Town* or *Township* system is general in the New England states, the towns being irregular districts of from 20 to 30 square miles in area.

In the six New England states there were, in 1900, forty-four towns of over 8,000 population, ninety-three between 4,000 and 8,000, and 1,591 under 4,000.

Townships as administrative divisions of the county exist also in the northern and central states, but seldom farther west or in the south.

In New England towns the ancient system of the *Town Meeting* still exists, all persons recognised as qualified electors under the state laws (which provide for adult suffrage for men and women) being entitled to attend.

The town meeting elects the *Moderator*, or presiding officer, and also the many town officials. These are usually chosen annually. Most of them are unpaid.

The most important of the town officers are the *Selectmen*, whose number varies from three to nine. They have now no legislative or financial powers and few powers of appointment. They are responsible for the town property, lay out highways and drains, issue certain licences, and in some of the smaller towns act as assessors, health officers and overseers of the poor.

The *Town Clerk* is frequently the only town officer who receives a salary. He is elected annually, but is usually re-elected. Besides being secretary of the town meeting and of the board of selection, he is registrar of births, marriages and deaths, and issues marriage licences.

In the large towns the system is gradually giving way to that of an elected representative body with paid officers.

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The town meeting is to be found also in some of the other states which possess the township system, but it is sparsely attended and has few powers.

Indeed, both in New England and elsewhere, these subdivisions of the county are of decreasing importance, owing to the development and incorporation of urban communities within them, to the growing powers of the county, and to the increasing number of special districts created for particular purposes.

### THE BOROUGH AND THE VILLAGE

The smaller urban communities, which have not reached the status of cities, are known either as *Boroughs* or *Villages*. They are usually established by the county board. In some states a vote of the community affected is necessary.

In the New England states the administration of villages is not distinct from that of the towns in which they are situated. Elsewhere they may be said to possess urban powers, as distinguished from the rural powers of the remainder of the county.

The governing body of a village is known as a *Board of Trustees* or *Village Council*, and consists of from five to seven elected members. Where there is a mayor, he is elected by direct popular vote. Otherwise, a chairman is elected by the council. A village council has usually more control over its officials than is the case in cities.

### SPECIAL DISTRICTS

There has been a tendency in recent years in some of the states to create local areas for special purposes—e.g., school districts, public health, drainage, road, water, irrigation districts, etc.—the special district authorities being invested with powers of taxation and frequently possessing the full legal status of a municipal corporation. These districts often overlap and add greatly to the complexity of local administration.

### THE CITY

In some states the very smallest urban communities are classed as cities ; in others there is a minimum limit of population, ranging from 250 to 5,000, while in New York and Pennsylvania the minimum limit is 10,000.

All cities, of whatever size, form part of the county in which they are situated, except in Virginia, and in a few cases where a city has grown so large as to include a whole county. Here the two forms of administration co-exist, much on the same principle that, in England, a borough is also an urban district. Cities are, as a rule, entirely independent of townships.

Boroughs and cities were originally created by charter, granted by the Colonial Governor. After the Revolution, charters were granted by the legislatures, but objections arose to the granting of a special charter in each case, and after a trial of the system of general charters, which proved unsatisfactory, the "classified charter" system was widely adopted.

Under this system each state which has adopted it can group its cities into classes according to population, with different charters for different classes.

Over one-fourth of the states, however, have since 1875 introduced what is known as the "home-rule charter" system. The size of the cities entitled to frame their own charters varies from the smallest cities or villages in Michigan, Minnesota, Ohio and Oregon, to cities over 100,000 in Missouri and, in Maryland, to the city of Baltimore alone. In every case the charter is drafted by an elected local board, whose proposals must be approved by a majority of the local electors in every state except Oregon, where the city council itself may act. Sometimes the legislature or the Governor has a suspensive veto.

In some states the "optional charter" system is in practice. Under this plan the legislature prescribes two or more, in New York seven, different forms of con-

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stitution for cities and allows the cities to select from among them.

There are at present three principal forms of city government, namely (a) the Mayor-and-Council, (b) the Commission, (c) the City Manager.

**THE MAYOR-AND-COUNCIL.**—The American *Mayor-and-Council* organisation differs from the English system primarily in that the mayor is directly elected as such by popular vote, usually for two years, that he is a salaried officer and that, as a rule, he holds an independent and commanding position in relation to the council. In 1924 the mayor held this powerful position in nine out of the ten largest cities and in at least twenty-six of the next thirty. In Denver neither the mayor nor the administrative officers attend the meetings of the council.

The mayor may recommend measures to the council in annual or special messages, and he often has a suspensive veto on all their proceedings. He is very frequently responsible for the preparation of the budget, though in some cities this function is in the hands of a special body, usually known as the "board of estimate and apportionment." He has large powers of appointing officials.

The city councils vary greatly in size, the largest, those of New York and Chicago, having seventy-three and seventy members respectively. San Francisco has a council of eighteen members, and Boston nine only. As a rule, any qualified elector is eligible. Residence in the city limits, and often in the ward itself, is necessary. In a few places there is a minimum age limit of twenty-five. The councillors usually receive a salary. In Boston they are paid \$1,500 a year, in Chicago \$3,000, in Philadelphia \$5,000.

Formerly a two-chambered council was very usual, one chamber being called the *Board of Aldermen* and the other the *Common Council*, but this system has practically disappeared.

The members of the councils are sometimes elected by wards, sometimes at large and sometimes by a combina-

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tion of the two. The elections are on party lines in the majority of cities, but non-partisan elections are rapidly increasing.

The councils meet weekly in the larger cities, fortnightly or monthly in the smaller. Standing committees are, as a rule, appointed by the president of the council, not by the council itself.

The powers of the city council have steadily declined during the past century. In no two cities are these powers exactly alike. Generally the councils may issue ordinances on any matters connected with municipal administration which are not specifically assigned to some other body or person. This general theoretical power, however, is in practice restricted within narrow bounds by the independent authority of the mayor, and often of the various committees and officials, by the minute legislation of the state legislatures and the increasing administrative control by the state authorities, and by the doctrine of strict construction which is applied by the courts.

One of the most valued powers of city councils was that of granting "franchises" (monopolies) for public service corporations, but this power is now much restricted.

The financial powers of the council are also often subject to limitations, the kind of taxation, the amount and the purposes for which it can be levied, as well as the power to borrow, being all fixed by constitution or by statute and being also, to a large extent, subject to the authority of the mayor. In the matter of loans, any proposals also require, as a rule, adoption by popular vote (referendum). The state usually regulates the *maximum* amount of all loans, but leaves cities free to decide the purposes.

•Administrative services are organised into five or more departments. In one type of charter the heads of these departments are directly elected. In another they are appointed by, and responsible to, the mayor, while in other cases some are elected and some appointed.

•The system of administrative departments, independent

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of both the mayor and the council; is passing out of existence. School boards (*ad hoc*), on the other hand, are increasing in number.

**THE COMMISSION SYSTEM.**—Whereas the orthodox type of city government in the United States—the mayor-and-council plan—is based on the principle of division of powers, of checks and balances, the *Commission* plan puts all legislative and administrative authority into the hands of one group of men.

The system was first adopted in Galveston in 1901. The charter of that city, as amended in 1903, provides for the popular election, every two years, of five commissioners. One of these (usually selected by his colleagues) is entitled the mayor-president. He is chairman at all meetings, but has no special powers, except that he is expected to exercise a co-ordinating supervision over the four departments, the headship of each of which is allotted, by majority vote, to one of the other four commissioners.

The success of this system in Galveston led to its adoption in other cities. In 1921 it was in force in about 350 cities, but in only a few with a population over 100,000.

The details of organisation differ to a certain extent from city to city. The term for which commissioners are elected varies from a single year to six years, but two-year and four-year terms are the most common. Commissioners are usually paid, the salaries ranging from a few hundred to several thousand dollars per annum. In a few cities the commissioners are directly elected to certain departments, instead of distributing the work among themselves.

**THE CITY MANAGER.**—The *City Manager* plan arose out of the commission system and was devised to remedy what were considered to be two great defects in that form of government, namely, the division of responsibility and the tendency to put the various departments in direct charge of men with no expert qualifications.

With the introduction of the city manager, however,

the "commission" in the American sense of the term rather takes the character of a "council" (and is often so called), in that its members are not administrative heads of departments, but form a deliberative and legislative body, while in the more recent city-manager charters the number of members is larger than the normal five.

The first trial of the city-manager system was made by Staunton, Virginia, in 1908, but the first case which roused great interest was that of Dayton, Ohio, a city of over 116,000 inhabitants, whose new charter came into force in 1914. Under this charter all municipal powers, except those relating to the management of the schools and public library, are vested in a commission or city council consisting of five members elected at large for a period of four years, some retiring every second year. The candidate who receives the highest vote is given the title of mayor, but he has no special functions except that of presiding at meetings. He receives an annual salary of \$1,800, his four colleagues receive \$1,200 each.

The council or commission by majority vote enacts the municipal ordinances and has a general control over finance, and it appoints the city manager and the city clerk.

The city manager is entrusted with the entire control of the administration. He holds office at the will of the council or commission, and is also subject to recall by the whole body of electors. His salary is \$12,500 per annum.

The city manager attends all meetings of the council or commission in an advisory capacity, with the right to take part in the discussions, but not to vote. He has no power to raise or appropriate money for any purpose, but it is his duty to see that the laws and ordinances are enforced. He appoints and removes all heads of departments and subordinate officials or employees, and prepares the annual estimates.

During the last few years the city-manager plan has spread rapidly, and in March, 1924, the total number of



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cities which had adopted it was 329. Only Cleveland of the cities over 200,000 is as yet thus governed. Akron has gone back to "mayor-council" type.

The systems vary considerably in detail. In some cases the city-manager is subject to popular "recall," in others he is responsible solely to the council or commission. The position of the mayor under one city-manager charter is very different from that under another. The method of election to the council or commission is by no means uniform.

The latest instance at the date of publication is Kansas City, which, in February, 1925, adopted a city-manager plan, to come into operation in April, 1926. A mayor and eight councillors are elected, four of the councillors by districts and four at large. All departments except that of the parks are placed under the city-manager.

### THE COUNTY

Most of the states are divided into counties, there being 90 to 150 counties in each—over 3,000 in the United States as a whole.

The average area of a county is 1,050 square miles, but nearly two-thirds are between 300 and 900 square miles, the average being increased by the large areas in the west, where 128 counties have each an area of over 4,000 square miles. The most usual areas are between 400 and 650 square miles.

The average population of a county is 26,646, and more than half of the whole number of counties have a population from 10,000 to 30,000.

In many states there is a minimum area for a county, and in some also a minimum population limit, the most usual limit of area being about 400 square miles, and the minimum population limit varying from 1,000 to 10,000.

In most states there are *County Boards*, in some cases directly elected, in others composed of representatives of the subordinate divisions of the county. In the former

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case the number of members is usually from three to seven. In the latter the average number is twenty to twenty-five.

The term of office is usually either two or four years. In some states members receive a salary, in others a payment per attendance. •

'Elections are usually partisan, except in the south, which is a "one-party" district, and the west, which is "non-party."

There is no chief executive officer of a county. Most of the important county officers, including the clerk, treasurer and surveyor, are directly elected for short terms.

The county assessor is one of the officers who are popularly elected in almost every state, usually for a two-year term, no special qualifications being required. Assessors are paid by fees or salary, the former being the most common.

The American county is primarily a district for the administration of justice and an agent of the state government. Its local government powers are very limited, most branches of administration being carried out by the state on the one hand and the villages or townships on the other.

At present the main items of county expenditure are for court houses, roads and bridges, poor relief, and (in the south) schools. In the matter of main roads, however, the intervention of the state is increasing, and practically every state in the Union has a state highway office and superintends the work of the counties.

In a few states the county board appoints the county board of education, but, as a rule, the latter is independent.

Statutes usually confer upon county boards the function of exercising general supervision over all activities of the county and county officials, but, as the boards have not the power to remove the officials, their control cannot be effective. The county boards have very slight power of control over the subordinate divisions of the county.

Proposals for reform are generally in the direction of

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increasing the powers of the counties as against the townships and villages and in respect of county officials, while at the same time enlarging the sphere of direct state government.

### CITY-COUNTY CONSOLIDATION

In a number of states provision has been made for the consolidation of city and county government for large cities.

New York City includes five counties. In Philadelphia and San Francisco the city and county are identical in area, while Baltimore and St. Louis combine city and county functions; Boston includes most of Suffolk County. In all these cases the city government includes some county functions and absorbs some county officers.

In Virginia all cities are excluded from the counties, and the city government provides for the carrying out of county functions. Several state constitutions authorise the administration of the larger cities as separate counties; in Michigan and Missouri the population of such cities must number over 100,000: in Minnesota it must be over 20,000. The Californian constitution contains a general provision authorising city and county consolidation, as well as special provisions for San Francisco and other cities.

Proposals for constitutional amendments for consolidation purposes in regard to their larger cities have been put forward in Ohio and Oregon, and definite proposals have been urged in Los Angeles and Alameda Counties (California).

The following are important instances of consolidation :—

(a) NEW YORK. (Population, over 6,000,000; area, 327 square miles.)

There are five counties within the limits of the city of New York, and their administration has been to some extent consolidated in the city government. The counties

are, however, regarded as separate units for the administration of justice and for the election of certain county officers, as prescribed by the State Constitution.

The New York Charter, passed in 1897, abolished all existing municipal or public corporations (except the counties mentioned above), and five new divisions, known as "boroughs" (which are now coterminous with the counties), were created for local municipal purposes (street lighting, sewerage, etc.).

The work of financial administration has been completely consolidated, all appropriations and tax levies for county purposes being made by the city authority, which also supervises county property, public works, etc.

The *Board of Aldermen* is in theory the legislative organ of the city, but it is described by Professor Munro as being to-day "only the ghost of a legislative body." It consists of a president, elected at large, sixty-seven aldermen, elected by the district every two years, together with the five borough presidents (elected in each borough for four years), making seventy-three members in all. It makes, amends and repeals all ordinances and has general legislative control over certain matters, but the mayor has the right to veto any order or resolution of the board, though this veto may be over-ridden by a two-thirds vote, a three-fourths vote being, however, required where the vetoed order involves the expenditure or borrowing of money.

The mayor is the real power in the city. He is elected by popular vote for four years. His annual salary is \$15,000. He may be removed by the Governor of New York State on charges after a hearing. He is responsible for the entire municipal administration except the department of finance and the departments under the control of the five borough presidents. He appoints all the higher administrative officials (except in these departments) and in most cases may remove them at any time.

•The city's administrative work is performed, in the

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main, by various municipal departments covering the whole city, but the borough presidents, within their respective boroughs, are responsible for the highways and sewers, for the care of public buildings and offices, and for the enforcement of the Building Code ; the presidents of the boroughs of Queens and Richmond also have charge of street cleaning. There are no borough councils, but bureaux for different purposes are established under the borough president and a commissioner of public works, who may be appointed and removed by the president at pleasure.

The *Board of Estimates and Apportionment* is, after the mayor, the most important institution in the city. It consists of the mayor (who is *ex-officio* chairman), the comptroller, the president of the board of aldermen and the five borough presidents. Its chief functions are to prepare the budget, to decide all proposals for municipal borrowing, to determine all grants of franchises, to investigate and act upon all larger questions of public improvements, etc. The board maintains five bureaux and about a dozen standing committees.

There are twenty-nine administrative departments, governed by boards or single commissioners, all of whom are appointed by the mayor, except the comptroller (who is head of the department of finance, and is popularly elected for four years) and the city clerk, who is appointed by the board of aldermen.

The political character of the whole system is exemplified in the board of elections, which consists of four commissioners—two Republicans and two Democrats—appointed by the board of aldermen for a term of two years, upon the recommendations of the county committees of the two parties. This board is responsible for the execution of the laws relating to all primary, general and special elections held within the city under the State Election Law.

The *Board of Health* is composed of the commissioner of health, the police commissioner, and a duly qualified

physician nominated by the Board of Estimates and Apportionment.

The *Department of Education* is administered by a board of seven members, unpaid, appointed by the mayor.

The *Police Commissioner*, appointed by the mayor for a term of five years, and removable by either the mayor or the Governor, is responsible for the police department.

(b) PHILADELPHIA. (Population in 1924, 1,750,000.)

In the middle of the nineteenth century the city government of Philadelphia consisted of a complex system in which the responsibility was divided between the mayor and twelve council committees, while the region outside the city, which had become densely populated by settlers, was administered by a miscellaneous series of overlapping local authorities. In addition to the county and city of Philadelphia there were nine other incorporated districts, six boroughs, thirteen townships, and ten legislative commissioners for special purposes (poor relief, etc.), the whole forming a total of "forty corporate or quasi-corporate bodies to manage the affairs of the smallest county in the States, and with the help of them it was undoubtedly the worst governed."\*

After ten years of agitation and discussion, a Consolidation Act was passed in 1854, by which the city boundaries were extended so as to include the territory in the county of Philadelphia, about twenty-nine local bodies being either abolished or absorbed. A new charter was adopted in 1919. Under this the mayor—elected for four years and not eligible for immediate re-election—has extensive powers, including the right to veto any ordinance or resolution of the council, subject to the repassing of it by a three-fifths vote. There are eleven regular municipal departments, each under a director appointed by the mayor, but the city treasurer, the controller and the receiver of taxes are elected by the people. The council consists of members elected on the basis of one for every 20,000 voters, and has the usual powers of

\* "History of the Consolidation of Philadelphia." E. K. Price. (1873.)

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\* an American municipal legislature. There is a civil service commission, consisting of three members appointed by the city council, which prepares lists for all posts except those filled by popular election or by appointment by the mayor, and provides for selection from the lists by competitive tests or otherwise.

### ALTERATIONS IN AREA AND STATUS

The promotion of a "village" to the status of a "city" is effected by the state legislature and is usually subject to a referendum. As already mentioned, in many states there is a minimum limit of population for a city.

About one-third of the states require a local referendum for changes in county boundaries, and about the same number have laid down the proviso that where part of one county is transferred to another there must be a "pro-rata" adjustment of debts. In the older states the creation of new counties or changes in county boundaries are now rare.

The extension of cities is usually carried out by the incorporation, by act of the state legislature, of a county or part of a county after a referendum of the inhabitants affected, the system of county government usually continuing to exist after the incorporation, side by side with the city government.

### FINANCE

The local authorities are restricted by both federal and state legislation in their taxing power, as regards both the subjects of taxation and the amount. There is also as a rule a maximum limit to their borrowing powers (which has been reached in the case of a large number of cities) and to the period for repayment, but seldom any system of approval of loans by a superior authority.

The most important source of revenue for both cities and counties is the general property tax, which represents from one-half to three-quarters of the total receipts, the

proportion being higher in the counties than in the cities. This tax is levied on the capital value of real property.

Other sources of revenue are special property and poll taxes, earnings of public service enterprises, special assessments, business and non-business licence taxes, highway privileges and state subventions.

There is very little financial state aid to local authorities. In 1921 receipts from central sources amounted only to \$2.76 per head out of a total revenue of \$44.32 per head. Out of the total subventions 87 per cent. was for education.

The valuation by the county assessor is the basis of all taxation, whether for the state, the county or the municipality. Appeals are usually allowed to the county board, and the action of the assessors must be in accordance with certain requirements of the constitution and the law, which are enforceable in the courts. Within recent years state tax commissions have been established in more than half of the states with powers of supervision over local assessments.

In those states in which there are no special county assessors (including all the New England states and New York) the assessment of property for taxation is either entrusted to some other county officer, or, more commonly, it is a function of the town or township, usually with some measure of supervision by county authorities.

#### CONTROL OVER LOCAL AUTHORITIES

It has been the custom in the United States for the local authorities to look upon the state institutions as advisory rather than as supervisory bodies. The policy of requiring a minimum of public services of different kinds has never been adopted by the states, nor, apart from the matter of education, is the device of state-aid in practice, except to an insignificant extent.

It is largely for these reasons that the local authorities are almost entirely free from outside control, except in the matter of a limitation of borrowing and taxing powers.



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As has already been intimated, however, the state governments are beginning to take a more active interest in the local administration of the rural areas, resulting partly in an extension of control, but also in the actual transfer of functions from the local authorities to the state governments themselves.

There are, moreover, instances of a more stringent state control, and one in particular may be mentioned, namely, the department of municipal accounts in the state of New Jersey. This department was established by an Act of 1918, extended in 1921. Under the laws relating to it, the head of the department is given large discretionary powers. He prescribes the character and scope of the municipal audit, checks all municipal budgets prior to the adoption of the tax ordinance, and requires the insertion of any obligatory items which have been omitted. An audit of local accounts must be carried out annually in all municipalities whose assessable value exceeds \$3,000,000, and biennially elsewhere. For the purposes of this audit private auditors are, subject to the passing of an examination, licensed by the commissioner of municipal accounts as "Registered Municipal Accountants."

### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—City health authorities existed in the United States more than fifty years before the first state board of health was established, but in the last fifty years there has been a steady increase in the number of state health authorities, in their powers, and particularly in their control over the local bodies.

The health departments of cities are administered very generally by small boards or committees, but the principle of a single responsible head is growing in favour. Many health boards must be composed of, or at least include in their membership, practising physicians.

Within recent years state health authorities have been

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given power to insist on the appointment of local health officers in counties as well as in cities, but county authorities are rarely given any power to make public health regulations, and their principal activities—except in times of epidemics—are still confined to the treatment by the county physician of paupers, prisoners and inmates of other county institutions.

In the smaller communities public health administration is almost entirely dependent on the activity of state officials.

EDUCATION.—Educational administration is not, in the United States, a function of the ordinary local authorities, but is almost everywhere carried out by independent boards, the members of which are unpaid. In 1919–20 94 per cent. of the funds for education expenses was raised locally.

As regards area, the urban communities are units for the purpose of elementary education and, in all but the smallest of them, for secondary education also. In the rural areas special school districts have generally been created, much smaller than the county and often wholly unrelated to it, but in a number of states the county area has been adopted for a more centralised form of administration.

In the majority of cities the school board is popularly elected, but in some cases it is appointed either by the mayor, by the city council, or by the courts. The typical board has less than fifteen members and in some cases as few as five, while in a few cities there is no board, but a single elected commissioner.

In practically every case the board acts through a specially trained official usually known as the superintendent of schools, selected by the board for a term of years varying from one or two to five or six.

In the last fifty years or so there has been a growth in the control of local education by state authorities, but a large amount of autonomy in this matter is still left to the local board and in this, as well as in other branches of

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administration, state control over cities is usually much less far-reaching than over the rural areas.

**HIGHWAYS.**—The county boards are mainly responsible for the highway systems within their districts other than in the cities, but since 1891 state aid and state supervision over counties and other local districts in the matter of highway construction has been generally established, the state in many cases paying from one-third to three-fourths of the cost of building state roads under the direction of the state highway office.

In recent years, too, the Federal Government has appropriated large sums for the building of national highways in co-operation with the states, who in turn place a part of the burden on the counties.

**PUBLIC ASSISTANCE.**—Poor relief was one of the earliest of the functions entrusted to the county. In most states it is under the direct control of the county board with little state aid or state supervision, but in some respects direct state administration is extending.

The city has also, as a rule, certain powers for the relief of the poor within its area, but until comparatively recent times this power has not been extensively exercised by the municipality, but has been largely left to the private activities of churches and other benevolent institutions, and this appears to be still the case except as regards institutional care.

Many charitable institutions are governed by unpaid state boards, appointed by the Governor and Senate, or sometimes by boards of control, consisting of paid officials.

There is no "social insurance" outside of workmen's compensation and occasional instances of widow's pensions.

**POLICE.**—The municipal police force is a regular department of city government. Almost everywhere it is under the control of a single official and is organised on a military basis.

In the counties the sheriff, who is an elected county

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officer, is, as representative also of the state authority, responsible for the preservation of law and order, but he has no organised force of police. Besides the cities, the other subdivisions of the county have, as a rule, their own local police officers whose duties are analogous to that of the sheriff, but they are not under his control, although his power extends nominally over the whole county. Fifteen states have some form of state police force.

### CONCLUSION

The principles of local government in the United States differ widely from those prevailing in Europe, whether of the English or the continental type.

The original English strain did not bring with them the ideas of representative government in local affairs which developed in Great Britain after their time and which have, therefore, never shown any vitality in the United States. On the other hand, centralisation after the French pattern could not be expected to take root in a new country, with its wide spaces and its loose organisation. It follows that the various efforts at reform which are being actively pursued in America are designed to overcome difficulties of a different character from those which are experienced elsewhere.

Those difficulties are due largely to the view formerly held that democratic ideals could be realised only by the direct election of all officials, which led in practice to a system of short terms of office and a lack of technical qualifications. A further result of this system and cause of difficulty was the introduction of national party politics on elaborately organised lines into all municipal elections. A difficulty of another kind arises from the character of the population, which, coming from so many of the old countries with different traditions and customs, have no common attachment to any particular form of local government and take little active interest in the subject.

In the various programmes of municipal reformers,

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therefore, and in the various experiments which have been made in the sphere of local government, there appears to be no desire to bring about a larger and more active participation of the people in their own self-government, the matter being treated mainly as one of a business nature with the aim of ensuring efficiency and honesty in the administration of local affairs.

On the other hand, the marked extensions in "direct government" and "home rule" for the cities, do represent gains in the principle of local as against central government.

The tendency towards an extension of the powers of the state governments over rural areas, similarly, is not due to any principle of centralisation, but to the same aim of efficiency, on the ground that the trend of development in modern times requires large areas for the best administration of many branches of the public service and, in carrying into effect this extension, the state governments are not impeded by ancient traditions of communes or local councils.

The lack of a desire for general participation in local self-government is qualified—at any rate, in the cities—by a greater initiative in certain respects on the part of sections of the general public as regards matters which, in the older countries, are usually left untouched except by the State or the local authorities themselves.

This is particularly noticeable in the matter of town planning. Those European countries which have adopted the principle have done so by means of general legislation, authorising or requiring the local authorities to take the necessary action. In America it is often a group of business men who have taken the initiative and who have spent much time and energy and large sums of money on the preliminaries of a scheme before submitting it to the local authority to be put into execution. The same practice is to be observed in relation to provision for public recreation and public health generally.

In the matter of education, which is not treated as a

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branch of the ordinary local government, the general participation of the public is practically universal and local interests are actively concerned in the management of the schools.

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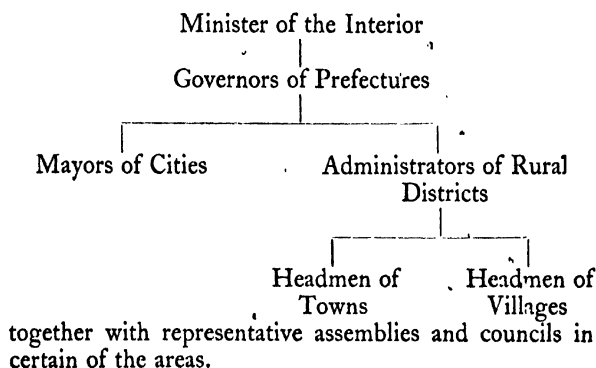
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## CHAPTER XVI

### JAPAN

THE Japanese system of local government was created by the Government in the years following the abolition of feudalism in Japan in 1871. It is based on laws and ordinances issued by the central Government which are applied through a rigid official organisation, of which the outline is as follows :—



#### AREAS OF LOCAL GOVERNMENT

Japan proper (that is, exclusive of the Hokkaido) is divided for administrative purposes into forty-six *Prefectures*. Three of these, containing the cities of Tokyo, Kyoto and Osaka, are known as *Urban Prefectures* (Fu), and the remaining forty-three as *Rural Prefectures* (Ken).

The Hokkaido is the northern island, which is still in process of colonization and has not been divided into prefectures.

The largest of the prefectures has an area of nearly 6,000 square miles and the smallest about 700 square miles. The population varies from 454,673 to about 3,700,000.

*Rural Districts* or *Counties* (Gun) were formed in 1878 and a system of local self-governing bodies established for them in 1890, but in 1921 this system was abandoned and the existing rural districts are merely administrative subdivisions of the prefectures.

Previous to the Restoration, the "Five-men Guilds" (Goningumi) existed as self-governing bodies. Under the law of 1878, *Cities* (Shi), *Towns* (Cho), and *Villages* (Son), were established under the prefectures, the law instituting elected assemblies for these areas being passed in 1880.

In Japan proper, the total number of villages in February, 1923, was 10,216, of towns 1,380, and of cities ninety-two. The population of the towns and villages varied from 137 to 80,789, and of the cities from 22,838 to 2,173,201.

In the Hokkaido there is a distinct classification of "first grade" and "second grade" towns and villages, there being 100 of the former, and 152 of the latter, as well as twenty-one Island towns and villages.

There is no legal limit of population for a city, but in practice a population of 30,000 is usually required for that status.

#### LOCAL AUTHORITIES

The existing local authorities are of two kinds, local State officials, and local Public Bodies.

The local State officials are the Governor-General of the Hokkaido, the governors of the urban and rural prefectures, the commissioner of the metropolitan police, rural district administrators (Guncho), mayors of cities (Shicho), administrators of islands, heads of district offices of the Hokkaido Government-General, and headmen of towns and villages.



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The authorities of local Public Bodies are (1) deliberative and (2) executive. The former are representative assemblies, the latter act as individuals.

The deliberative authorities are the *City, Town and Village Assemblies* (Shi, Cho and Son Kwai), which are elected for four years, the number of members being in proportion to the population, with a minimum of thirty for the cities and of eight for the towns and villages. The members are unpaid.

In the cities there is also a *City Council* (Shi Sanjikwai), which consists of the mayor, the deputy-mayor or mayors, and from six to twelve members elected by the city assembly from among their own number for the same period of office as their membership of the assembly.

The executive in the city is the *Mayor* who is appointed for four years by decree of the Emperor (communicated through the Minister of the Interior) from among three candidates nominated by the city assembly. He receives a salary.

The executive in the towns and villages are the *Headmen*, who are elected by the town and village assemblies, subject to the approval of the Governor of the prefectures. They are usually unpaid.

The principal salaried officials are appointed by the city, town or village assembly, subject to the approval of the Minister of the Interior, the governor of the prefecture or the rural district administrator. Minor officials are appointed by the mayor or headman.

The city, town and village assemblies are obliged to provide for the maintenance and control of roads, elementary education, registration, conscription, town-planning, and the enforcement of the laws relating to the prevention of infectious diseases, cleansing and vaccination. They collect the State as well as the local taxes. Their discretionary powers are very wide, including powers relating to drainage, water supply, public parks, burying grounds, crematoria, tram-car and motor services,

supply of electric light and gas, dwelling-houses, public baths, markets, hospitals, poor-houses, etc.

Unions of cities, towns and villages may be formed voluntarily for any joint purpose and function through elected councils. Such unions may also be formed compulsorily by the governor of the prefecture. Water utilisation associations, mainly for the irrigation of rice-fields, are common.

#### ALTERATION OF AREA OR STATUS

In cases of towns or villages being abolished or newly established, the governor of the prefecture hears the opinions of the town or village assemblies concerned and decides the matter after taking the decision of the prefectural council and obtaining the sanction of the Minister of the Interior.

When it is proposed to abolish a city or establish a new city, the decision is made by the Minister of the Interior after hearing the opinions of any city, town, or village assemblies and prefectural councils which are interested.

When a majority of the residents of the districts concerned desire the grant of the application in order that they may eventually look forward to complete self-government, it is usual to consider the application, even if there are persons opposed to it, provided these are a very small minority.

There are no conditions laid down by law for the alteration of boundaries of cities towns, or villages, but in practice it is required that the residents of the areas to be combined as a result of the change of boundaries should as between themselves, abolish differences in sentiment, customs and living conditions, and it is required also that no violent change in their financial responsibilities should be brought about. In particular, as regards cities, it is required that the residents construct a compact city area, with houses in rows, or that at least something approaching this state of things may be expected.

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### THE PREFECTURE

In the Hokkaido and the urban and rural prefectures there are both *Assemblies* (Do, Fu or Ken Kwai), and *Councils* (Do, Fu, or Ken Sanjikwai) constituted on the same principles as those of the cities.

The executives are the Governor-General of the Hokkaido and the governors of the prefectures, with the officials attached to them, all of whom are Government officials.

The functions of the prefectures, which are specifically prescribed, include the provision and maintenance of lunatic asylums, reformatories and teachers' training colleges.

### THE ELECTORATE

The local representative assemblies (Public Bodies) are elected by the citizens. A citizen must be a male Japanese subject of over twenty-five years of age, have an independent household, have paid, as a resident of the city, town or village in question for two years' previously, the direct local taxes and have received no assistance from public funds on account of distress or poverty. Persons adjudged incompetent, quasi-incompetent persons and persons having undergone punishment of greater degree than imprisonment or penal servitude for not less than six years cannot be citizens.

Any person may be a member of the assembly of the city, town or village of which he is a citizen and of the assembly of the Hokkaido or prefecture within which he is a citizen, if he has paid direct national taxes for one year.

Most officials, ministers of religion, teachers in primary schools, members of the military and naval forces on the active list, and persons concerned in contracts on behalf of a local authority are disqualified from being members of assemblies.

Persons related in the degree of father, son or brother to the mayor of a city, or to the headman of a town or

village, or to a revenue official, deputy-mayor, deputy-headman or adviser to a city, may not hold the office of member of a city, town or village assembly. Further, persons related to each other in the relationship of father and son, or elder and younger brother, cannot at the same time become members of a city, town or village assembly.

#### FINANCE

The sources from which the local authorities draw their funds are local taxes, subsidies and grants from the national treasury or from higher authorities and receipts from undertakings, property, etc.

Local authorities are permitted to levy special taxes suited to the actual conditions of the locality concerned, as surtaxes on national taxes or on the local taxes imposed by higher authorities, the surtaxes on national taxes in each case being limited by law to a fixed amount. City, town and village taxes are imposed only when receipts from sources other than taxes are insufficient to meet expenditure.

Grants may be made of fixed amounts from the National Exchequer towards expenditure on police and compulsory education, and subsidies are given towards the cost of prevention of infectious diseases, national and prefectural highways, aqueducts, land reclamation and the improvement of arable land.

Where loans are necessary for the repayment of the liabilities of a local authority or to provide for expenditure likely to result in permanent benefit, or when they are required on account of natural disasters, etc., they may be raised if a resolution to that effect has been passed by the local assembly and the sanction of both the Minister of the Interior and the Minister of Finance has been obtained. The right to grant sanction is entrusted in part also to the governor of the prefecture.

The sanction of the Minister of the Interior and the Minister of Finance is also required for the levy of new

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miscellaneous local taxes, or the imposition of surtaxes upon indirect national taxes, decisions involving expenditure for a period exceeding four years, and generally for the imposition of taxation by a city, town or village beyond certain limits.

The six great cities—Tokyo, Kyoto, Osaka, Nagoya, Kobe and Yokohama—do not, however, need to obtain sanction for all these purposes.

In the case of the prefectures and the Hokkaido, the sanction of the Minister of the Interior is required for the establishment or alteration of rents, the disposition of immovable property, and for resolutions involving continuing expenditure.

When a city, town, or village has not entered in its budget expenditure which it is required by law to bear or which has been ordered in accordance with the powers of the Government Offices concerned, the governor of the prefecture may add such expenditure to the budget in question.

The Minister of the Interior may strike out of a prefecture budget items which he considers improper.

The proportion of current expenditure of local authorities borne by local taxes, grants and receipts from undertakings, etc., in the year 1923-24 was as follows :—

	Pre- fectures.	Cities.	Towns and Villages.
	Per cent.	Per cent.	Per cent.
Local taxes . . . . .	85	30	69
Grants from Treasury . . . . .	13	4	8
Grants from higher authorities . . . . .	—	2	3
Receipts from undertakings, etc. . . . .	2	64	20

Three-fifths of the produce of local taxation in the towns and villages, in the year 1923, came from surtaxes on the prefectural house rates, the next largest items being surtaxes on the land tax and on miscellaneous taxes.

Other sources were surtaxes on the income and business taxes. In the cities the produce of surtaxes on (1) the national and business taxes, (2) the income tax, (3) the house tax, and (4) miscellaneous taxes, as well as the item of directly levied special taxes, each accounted for 15 to 20 per cent. of the total revenue from taxation.

The prefectures, in the same year, raised about two-thirds of their revenue by surtaxes on the land tax, the other principal items being house rates, miscellaneous taxes, and surtaxes on the national and business taxes.

Prefectural councils may elect committees from amongst the honorary members of the council to audit the receipts and expenditure of the prefectures. While the accounts are being audited, the governor of the prefecture, or a government or non-government official designated by him, must attend the meeting.

The receipts and expenditure of cities, towns and villages are audited every month on a day fixed for the purpose, and not less than two extraordinary audits must be made during each financial year. The audit is made by the mayor of the city, or by the headman of the town or village.

The accounts of receipts and disbursements of public bodies which have received subsidies from the Government are audited also by the Board of Audit.

#### CONTROL OVER LOCAL AUTHORITIES

Towns and villages are primarily under the control of the administrators of districts and secondarily under that of the governor of the prefecture; cities are directly under the control of the governor of the prefecture. The Minister of the Interior has a general power of supervision and control over all local authorities.

Apart from the sanction needed for certain financial proceedings, already mentioned, the approval of the higher authorities is required, in the case of cities, towns and villages for :—

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- (1) The establishment or revision of city, town or village regulations ;
  - (2) Disposing of, or making serious alterations in, objects important from a historical, artistic, or literary point of view ;
  - (3) Retirement of the mayor of a city ;
  - (4) Assumption of office by advisors to cities ;
- and in the case of prefectures for :—
- (1) Disposing of, or making serious alterations in, objects of importance from a historical, artistic, or literary point of view ;
  - (2) The arrangement of districts for the election of members of the prefectural assembly.

The Minister of the Interior may order the dissolution of a city, town or village assembly and, subject to the Imperial sanction, of a prefectural assembly.

The governor of a prefecture (and the administrator of a district as regards town and village assemblies) may cancel a decision of the prefectural, city, town, or village assembly, or of the prefectural or city council, or may cancel an election of these if it is illegal, or any action of an assembly or council which is *ultra vires*.

The governor of the prefecture carries out disciplinary measures as against the mayors of cities, the headmen of towns and villages, and other non-government officials of cities, towns, and villages, and the administrators of districts do so as against headmen of towns and villages, and other non-government officials of towns or villages.

### ADMINISTRATION OF CERTAIN PUBLIC SERVICES

**PUBLIC HEALTH.**—Cities, towns and villages establish infectious diseases hospitals, isolation hospitals, etc. ; they carry out methods of cleansing and disinfection ; appoint committees for the prevention of infectious disease, and cause them to perform quarantine and preventive duties, and are under an obligation to bear the expense connected with vaccination and the prevention of infectious diseases.

The prefectures bear the costs incurred in establishing committees on quarantine, etc.

Quarantine at maritime posts is under the control of the governor of the prefecture and is administered by a harbour department or by an emergency port quarantine station.

The law for enforcing the scavenging of streets and for the maintenance of cleanliness is, as a rule, applied only in cities, but the governor of a prefecture may apply the whole or any part of it to a town or village or to any portion thereof.

EDUCATION.—As a general rule the bodies responsible for the establishment of ordinary elementary schools are the cities, towns, and villages, or the school district concerned. In cases where the financial resources of a town or village are insufficient to establish an elementary school, the rural district administrator may cause such town or village to form a *Town and Village School Association* together with another town or village for the purpose.

The Hokkaido and the urban prefectures are obliged each to provide a middle school, a high school for girls, and a teachers' training school. The Minister of State may order the Hokkaido or any prefecture to establish a commercial school where local conditions warrant it. The Hokkaido and the prefectures may establish universities and higher schools, and they, as well as cities, may also establish technical, commercial and industrial schools. Cities, towns and villages, and city, town and village school associations may establish middle schools, high schools for girls, commercial and industrial schools, and higher primary schools.

HIGHWAYS.—Duties connected with roads belonging to the State are entrusted to the local authorities. In addition, roads may be constructed by public bodies at their discretion, provided the permission and approval of the superintending Government office is obtained and the public bodies themselves bear the cost.

POLICE.—The local authorities have no police powers



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The police authority is a function of the State and is carried out by the Governor-General of the Hokkaido and by the governors of the prefectures ; in Tokyo, by the chief of the Metropolitan Police Board.

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## CHAPTER XVII

### SUMMARY AND REVIEW

#### CENTRALISATION AND DECENTRALISATION

To compare the extent of autonomy enjoyed by the local authorities in different countries is a matter of extreme difficulty, owing, in the first place, to the fact that practice may vary widely from the strict legal provisions and, secondly, to the number of factors which have to be taken into consideration.

Thus, it would appear at first sight that in those countries in which the local authorities have power to undertake any functions for the good of the community which are not explicitly forbidden by law (*i.e.*, most of the European countries and the United States), the local autonomy would be greater than where, as in Great Britain, the British Dominions and Japan, they may exercise no powers which have not been definitely conferred on them by Act of Parliament. But in the former case the "tutelle administrative," the control exercised by superior authorities over the acts of administration, may be such that the supposed local autonomy exists on the surface only and is in reality much less extensive than in the cases where, although the powers are strictly defined, the local authorities are unfettered in their exercise of them.

To state that in any country the communes possess a large measure of autonomy is meaningless, if no resolutions of the communal council relating to financial matters are effective until they have received the approval of a superior authority. Again, the executive authority of a town may be very largely independent of external control in its acts of administration, but, if the appointment and

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dismissal of that executive authority are controlled by the higher powers, the so-called autonomy is more apparent than real.

To an Englishman there is yet another point of view to which allusion is made in the introductory chapter. He is imbued with the idea that "genuine self-government means the participation of the whole community by means of representative councils, which are themselves vested with the legislative, executive and administrative authority to the exclusion of any other local body or person. The existence, therefore, of an executive which is independent of the representative council, the handing over of the actual government of a town for a number of years to a burgomaster or a small number of commissioners, even though these are locally elected, is to him the negation of self-government.

The general control over the proceedings of the primary local authorities is, in most European countries, exercised by an official such as the prefect, who is the representative of the central Government for the department or corresponding administrative area. The extent to which this control operates varies in the different countries both in law and in practice, and even in the same country often differs according to the personality of the individual officials.

The French prefect has extensive powers of control over all the communes in his department, including the large towns, and, seeing that he is himself directly responsible to the central Government (in the words of M. Barthélemy, "a political agent . . . appointed at the will of the Government and dismissed at its pleasure"), the central control over the local authorities of France is very complete. It is even open to the prefect to suspend a communal council and to the head of the State to dissolve it, and such dissolutions are not infrequent.

In Belgium control may be by the commissaire d'arrondissement, the députation permanente, the governor, or the King, according to circumstances, but the communes

have greater freedom than in France. In Holland the Crown can set aside any communal resolution on the ground that it is illegal or contrary to the general interest, and control is also exercised by the Gedeputeerde Staten.

Italian communes must obtain the confirmation of the prefect for all resolutions except such as relate merely to the execution of measures previously confirmed in principle. This usually applies only to the question of legality, but for certain purposes the merits of the resolution are taken into consideration. Certain communal resolutions also require the approval of the giunta provinciale amministrativa. This is irrespective of the latest developments in Italy, which appear to involve a complete suspension of local self-government over a large proportion of the kingdom.

In Norway every decision of a local authority requires the approval of the Fylkesmand, who corresponds to the prefect, and if, on a reference back to the council, the decision is not re-passed by a two-thirds majority, the minority can demand that it shall be subject to the approval of the King. In Denmark and Sweden also certain communal resolutions require approval, though in the latter country in particular the traditions of local autonomy are strong.

The Swiss communes are very free of control by any superior authority except as regards matters, such as police, which are delegated central functions. Nevertheless, the cantonal authorities have power to intervene if they consider that the action of a commune is such as to endanger its financial stability.

Under the present law of Spain, which is contained in Acts and Ordinances of a date so recent as 1924 and 1925, the local authorities appear to be very free of any external control. The old presumption that the provincial "diputaciones" and the civil governors were hierarchical superiors of the ayuntamientos (town councils), and that the civil governor had power to intervene, directly or indirectly, in many matters relating to municipal life, has

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now entirely disappeared. The one important limitation to this local autonomy in Spain is the "regimen de tutela," which can be set up only in extreme cases, as for instance when a municipality shows a serious deficit for a period of years.

In Finland, also, the autonomy of the communes is stated to be very wide. Nevertheless, communal decisions relating to public health, morality, the maintenance of order and police generally require the approval of the prefect, those relating to the sale of land require the approval of the Council of Ministers, while regulations relating to public assistance or primary schools must be sanctioned by the appropriate Ministries.

The proceedings of all local councils in Esthonia must be sent within four days to the Minister of the Interior, who may protest within fifteen days on the ground of illegality. In Hungary decisions relating to public health, morality, maintenance of order and some other matters must be submitted to the prefect for his approval. The municipalities are directly under the control of the Minister of the Interior. The smaller towns and other primary local authorities are subject in the first instance to the Comitát (or council general of the department) and in the second to the Minister.

The most elaborate organisation for control—although this does not necessarily signify in practice the most severe restrictions on communal autonomy—is to be found in Germany. Thus, in Prussia rural communes are supervised in the first instance by the Landrat (the head of the Circle or Kreis), and in the second instance by the Regierungs-präsident (head of the Government District or Bezirk). For the control of other authorities there is, in addition to the Regierungs-präsident, the Ober-präsident (of the province), while supreme supervisory powers are vested in the Minister of the Interior. Supervision over local administration is, however, practically limited to seeing that the administration is carried out in accordance with the law. The actions of the local

authorities are subject also to legal control by the administrative courts and administrative authorities (*i.e.*, Kreisausschuss, Bezirksausschuss, Provinzialrat, Oberverwaltungsgericht).

The system of control through the jurisdiction of administrative courts is in force in most of the European countries, but the details differ so greatly that it is impossible to deal with them in a summary. The French system, while not so elaborate in organisation as the German, appears to be the most complete in action, but Italy affords a great variety of methods of appeal against proceedings of local authorities. In Spain the system of administrative jurisdiction has been recently abolished.

The administrative courts, while they serve on the one hand as tribunals to hear complaints by individuals against the proceedings of local authorities, may on the other hand act as protectors of the local authorities themselves against unwarranted encroachments upon their rights and privileges by the central Government.

In Great Britain, the British Dominions and the United States this administrative jurisdiction is unknown. The legality of the proceedings of a local authority in Great Britain can be judged by the ordinary courts alone. There is, however, a central control in certain matters other than in those relating to finance, which will be dealt with later. Thus, the by-laws of any local authority must be confirmed by a Government Department, and town-planning schemes must have the approval of the Minister of Health. The resolutions of local authorities generally, however, have immediate force, and need not at any stage be submitted to a superior authority. Much the same principles are followed in the British Dominions.

In the United States, apart from financial restrictions, local authorities are almost entirely free of external control in so far as their powers extend. This is especially the case in those states which have adopted the system of the "home rule charter" for their cities.

## FINANCIAL AUTONOMY

The financial control which is exercised over local authorities may be either (1) by restrictions as to the resources from which they may obtain their revenues ; (2) by requiring approval by the superior authority, of the estimates, budgets or other decisions relating to financial matters before they become effective ; or (3) by an audit of the accounts by a superior authority.

(1) RESTRICTIONS AS TO RESOURCES.—These are laid down by law in almost every country. Local authorities are permitted by law either to levy certain taxes themselves or to add centimes to certain State taxes for local purposes, or both practices may be adopted at the same time. In France, Belgium, Holland, Italy, Spain, Germany, Switzerland, Hungary, Japan and other countries the system of additional centimes is in force, and, naturally, the taxes to which it may be applied are specified by law, and the amount of additions which may be made strictly limited.

The taxes which may be so treated almost always include the land and buildings taxes, usually the income tax, if it exists, and sometimes taxes on businesses, house rents and other subjects.

In Great Britain the local authorities are restricted to one form of local tax, namely, on the annual value of land and buildings, but, with few exceptions, there is no limit on the rate of the local tax which may be so levied. In the United States and the British Dominions taxation of land is the main source from which local authorities obtain their revenues, but in the former the assessment is always on the capital value, while in the latter it is in some cases on the capital and in others on the annual.

In some countries a local income tax may be directly levied by the local authorities. In Holland the local income tax forms the greater part of the municipal revenues. In many of the cantons of Switzerland the communes levy a local income tax, and such a tax has been

a substantial source of local revenue in Prussia, Norway, Sweden and Denmark. In several of the provinces of Canada a local income tax is permissible, but is seldom resorted to. There is, as a rule, a statutory limit to the rate at which a local income tax may be levied, but in Finland there is no such limit.

Octroi used to be one of the chief sources of municipal revenue in Europe. It has now been considerably diminished in France and does not hold the same place that it did in other countries, though still of material importance in Italy and Spain. Outside Europe it is little practised except in British India, where it is the second largest item.

In almost all countries except Great Britain, local authorities are permitted to levy taxes on a number of specified objects. French legislation shows a long list of such items; so also does that of Esthonia; in Switzerland the variety among the different cantons is great; and in most European countries such imposts as a dog tax are available for the local authorities. The produce of taxation of this description forms, however, a very small proportion of the total local revenue in any country. There is at least one country—Hungary—in which the towns may levy taxes on any object which is not taxed by the State. This is the case also, in theory, in Belgium, subject to the approval of the King, but in actual practice the Belgian communes find that at present they have little freedom in this respect.

Recent legislation in Germany has greatly restricted the resources of the local authorities, which are now not entitled to levy a local income tax and may make additions to the imperial income tax only with the consent of the Imperial Government. The provisions in the republican constitution and the State Taxation Law of 1920, giving the Imperial Government control over all taxation intended either wholly or partly for imperial objects, have effect upon the finances of the local authorities as well as on those of the states.



(2) **APPROVAL OF BUDGETS, ETC., BY SUPERIOR AUTHORITY.**—In France the communal budgets are settled by the prefect, and those of the largest towns require the approval of the President of the Republic on the proposition of the Minister of the Interior. In Belgium, Holland and Italy the communal budgets are subject to the control of the provincial authorities; in Roumania all resolutions of the communal councils relating to the assessment or levying of taxes must be submitted for approval to the Minister of the Interior, who takes the opinion of the superior administrative council.

In the Scandinavian countries, the German states and Spain, the communal budgets, although they may be required to be submitted to the superior authority, do not as a rule need its approval, except in some cases for the imposition of new taxes. In Japan the sanction of the Minister of the Interior and of the Minister of Finance is required for the levying of new taxes, for expenditure which will cover a period exceeding four years and some other financial matters.

The very strong measure of control known as "inscription d'office"—that is, the power of the superior authority to insert in the communal budget items of expenditure for obligatory functions—is practised in Japan as well as in France, Holland, Poland, Hungary, and some of the German states.

In Great Britain, the British Dominions and the United States there is no preventive control by superior authorities in financial matters except as regards loans.

It is an almost universal rule that the borrowing of money by a local authority requires the sanction of the central Government or its representative, although in some cases loans for small amounts or for short periods may be raised without such sanction.

In the United States, however, the control in the matter of loans is not as a rule by way of approval in each case, but by a maximum limit, laid down in the

state constitution, to the total amount which may be borrowed by a local authority.

In England and Wales, sanction for a loan must be previously obtained in every case from a Government Department, usually the Ministry of Health, but in Scotland local authorities have greater freedom. In the British Dominions sanction must be obtained from the state or provincial governor. In Canada, in addition to this requirement as to approval, it is a usual provision of the provincial law that the aggregate debt of a local authority must not exceed 25 per cent. of the assessable value of all property liable to local taxation, but this provision is not very effective.

In France no approval is needed for loans up to a period of thirty years, provided that the annual payments in respect of the loan do not cause the maximum limit of additional centimes to be exceeded. This maximum limit may be exceeded by permission of the prefect and a longer term than thirty years may be allowed by decree of the Conseil d'Etat. In Spain no approval is needed for loans for a period not exceeding ninety days, and town councils may borrow up to one-sixth of the revenue relating to the subject for which the loan is to be raised. In Norway loans for over five years require the approval of the Crown. These are instances only of a practice which is very general and differs only in detail. It is of special interest to observe that in Sweden, where all proposals to borrow above a certain amount are examined by the Minister of Finance, the Minister is assisted in the case of towns by the financial committee of the Swedish Union of Towns.

(3) GOVERNMENTAL AUDIT OF ACCOUNTS.—In most, if not all, of the countries in which communal budgets must be submitted to the superior authorities, the final accounts of the communes must also be so submitted. This does not necessarily imply that there is in these countries a systematic Government audit. The Government examination of accounts after they are closed is of most importance in those countries, such as Great Britain,

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where Government grants-in-aid form a large proportion of the revenues of the local authorities and are conditioned by the satisfactory performance of the functions towards the expense of which the grants are given..'

The Government audit of local authorities' accounts in England and Wales is under the control of the Minister of Health, and applies to certain of the accounts of town councils and to all the accounts of other local authorities.

In some of the provinces of Holland provincial officials exercise supervision over the communal accounts, and there has also been established, by the Dutch Union of Towns, a special bureau which, by mutual agreement, audits the accounts of 386 communal administrations. In Roumania the communal accounts are examined by la Haute Cour des Comptes.

Audit is sometimes, but not uniformly, carried out by the cantonal authorities in Switzerland, by the provincial authorities in South Africa, by Government inspectors in Australia. In the greater part of Canada auditors are appointed by the local councils, but the province of Quebec has appointed inspectors to audit the accounts of rural municipalities, at their request.

In the United States there are some instances of state audit ; the State of New Jersey, in particular, has a complete organisation for the purpose, but this is not usual.

### OFFICIALS

One point which has an important bearing on the autonomy of local authorities is the relation of these bodies to their officials.

The conception of a local government official in Great Britain is that of a person employed by and subject to the orders of an elected council. Of the fact of this relation between the officials and the councils there is no question, nor has there ever been a suggestion that it should be otherwise. The town clerks of the most important cities, in spite of the recognised influence which they exercise

upon the town councils and of the important position which they occupy in public life, would never think of disputing the fact that they are the servants of their respective councils.

It is an undoubted fact that the English detestation of "bureaucracy," or rule by officials, is such that the principle of the supremacy of the elected councils in local government is unlikely ever to be broken down. The same principle is followed in most of the British Dominions.

In the United States a different attitude is taken. The basic idea is that the principal local officials are responsible directly to the people at large. This idea led to the unfortunate system of election of almost all officials—a system from which the American cities are now making great efforts to free themselves. None the less, under the latest development of city government, the city manager holds a far more commanding position than any English official would ever be likely to attain to.

It is of interest to observe that, in addition to the fact that several Canadian cities have appointed city managers, the Irish Free State has definitely adopted the city manager system, at any rate provisionally, and that Spain has provided for it in her recent legislation.

The city manager, however, in spite of his extensive powers, is technically a servant and not a master. The prefects of the Latin countries and the German burgomasters are rather the masters than the servants of the bodies with which they are connected. While they are salaried officials, they are in no sense subordinate to the elected councils. Indeed, they are practically dictators within their own spheres, the local councils being little more than advisory bodies, except as regards the voting of money to carry out the municipal policy.

The French maire, whereas he receives no salary (though he may be paid substantial sums for expenses) and is elected for four years only, possesses extensive powers as executive head of the council, and at the same

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time local representative of the central Government. In view of this dual position, although he is elected by the council, he is subordinate to the prefect and may be dismissed by the head of the State.

In a large number of the cities of the United States, the mayor (who receives a salary) occupies as commanding a position as that of the German burgomaster, tempered by the fact that he is elected for a much shorter term and is sometimes subject to the "recall."

In both Belgium and Holland a paid mayor is appointed by the Crown for six years and presides over the town council. In Sweden also a legal burgomaster is appointed, by the Crown, but he occupies a somewhat detached position, rather judicial than administrative, and does not preside over the town council, which elects its own chairman.

In Italy, Spain, Denmark, Norway, and South Africa, the mayor is elected by the council for a short term and (except in Norway, where he is rather an official of the town clerk type) presides at the meetings of the council. In Switzerland he is elected by the communal assemblies, which means the whole body of electors, and in Canada he is almost always directly elected. Some of the Australian states provide for election by the local council and some for direct election. In Japan the mayor is a paid official appointed for four years by the Emperor.

The powers of the British mayor have never been defined, but his position is very different from that of the French maire or the German burgomaster. Elected annually by the council, he is the visible representative of the municipality, and his office is regarded as one of honour and dignity. He presides over the meetings of the council and is constantly consulted on all municipal affairs, but the extent of his influence is mainly dependent upon his personality.

As regards the heads of the larger areas—counties, departments or provinces—the British chairman of a county council occupies a similar position to that of the

mayor in the towns. The *préfet*, *landrat*, *fylkesmand*, or governor of the Continental countries, on the other hand, is invariably appointed by the Central Government and exercises extensive powers over the council of the department or province and also over those of the communes within it.

In France and some of the other European countries, both head and subordinate officials are appointed by the prefect or similar official for the larger areas and by the mayor for the communes. In others (including Great Britain and Holland) the council appoints or, in the case of the subordinates, confirms the appointment by the head of the department. The official heads of departments in Great Britain in a few cases may not be dismissed without the consent of the appropriate Minister.

Under the commission system in the United States and in countries in which there is an executive committee, to the members of which responsibility for certain branches of the administration is allotted (*e.g.*, Belgium and Holland), such members may perhaps be considered to be official heads of departments. In the former case the commissioners are directly elected, sometimes with and sometimes without designation of the particular branch of work which they are to undertake; in the latter they are elected by the municipal councils. In neither case, however, are these persons technicians.

In some countries the status of local government officials is definitely regulated by the legislature. Thus, in France, since 1919, the law has required communes having a population exceeding 5,000 to adopt a definite "statute" laying down the principles of appointment, promotion and discipline of their staff, and a model form for such "statute" has been drawn up by the *Conseil d'Etat*. The Italian law requires all communes similarly to fix the status of their officials in accordance with certain general principles and subject in each case to the approval of the provincial authority. Similar provisions are in force in Spain. A Belgian law fixes the minimum salary

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of communal secretaries and receivers. In Hungary a law of 1912 ranges the local officials in the same categories as those of the State, while the new law of Roumania definitely establishes a legal status for all communal officials.

### THE EXECUTIVE

Under the British system of local government, the elected councils are themselves the local authorities, all local governing powers being vested in them, and the executive—constituted by their staffs of officials—are completely subject to their orders. The British Dominions generally follow the same course, and a somewhat similar system is in force in Bavaria and Wurtemberg. The varieties of practice in this matter in the United States are so great that they cannot well be included in a summary.

In many countries, however, the executive of the elected council—whether an individual or a body of persons—is largely independent of the council, and the actual powers of local government (other than the voting of money) are often vested in it and not in the elected body.

This is the case with the maire of the French commune and the burgomaster of the German town, with the "colleges" of Belgium and Holland, and the giunta municipale of Italy. So, too, the departmental or provincial councils have their semi-independent executives, as the commission départementale of France, the députation permanente of Belgium, the gedeputeerde staten of Holland, and the deputazione provinciale of Italy.

In all these cases, although the executive is appointed by the elected council and is expected (though often with reservations) to carry out the policy directed by the latter, it is by no means the servant of the council in the English sense, but is usually rather the ruling power.

The members of such an executive almost always

receive a salary and are usually appointed for the term of office of the council.

Where such an executive with independent powers exists, it is obvious that, irrespective of any question of external control, the electors and their representatives have surrendered their powers of self-government to a bureaucracy, except in so far as they hold the purse-strings.

### THE REFERENDUM

The actual participation of the mass of the people in their own self-government can, under modern conditions, be exercised as a rule only through representative bodies. There are, however, still cases in which the opinion of the whole electorate may be directly expressed on definite administrative questions.

A meeting of the assembly of all the electors as a normal course of proceeding is largely practised in Switzerland, and is also provided for in Spanish legislation for the smaller communes, the "town meeting" is still a recognised institution in the New England states of North America, though falling into disuse, and in the less populated parts of the British Dominions it is natural for the whole body of persons within a certain area to act together until the area in question reaches a stage of development at which a representative organisation would be appropriate.

The system of the referendum—the taking of a poll of the electors on some specific matter—is more general. This procedure is simple in Switzerland, in view of the continued existence of the communal assemblies, and, being employed in connection with national as well as local affairs, is a familiar public practice.

In the United States the initiative and referendum have been adopted in a number of states and cities. The recall (*i.e.*, the right of a certain number of voters to demand the immediate removal of any elective office holder and to have this demand submitted to the voters for decision).

*E.g.*

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is usually, but not necessarily, linked with the initiative and referendum. Professor Munro, in his latest work on municipal government, expresses the opinion that "the initiative and referendum, as used in American cities during the past twenty years, have neither fulfilled the hopes of their friends nor justified the forebodings of their opponents," and adds : "The strong probability is, if one may venture a prediction, that less use will be made of direct legislation as time goes on. This does not mean, however, that the process will be altogether discarded. The people will keep it as a safeguard." A similar opinion is expressed by Professor Munro on the recall.

In other countries, though the referendum as a general principle has not been adopted, there are sometimes provisions that certain resolutions of a local authority shall require the assent of the electors at large. Thus, in Canada the raising of a loan usually requires the assent of a majority of electors as well as the approval of the Governor. In New Zealand the power of local authorities to borrow money is subject to their previously obtaining the consent of the ratepayers by means of a poll. In the Cape Province no municipality (with certain exceptions in respect of those with high rateable value) may levy a rate exceeding 4*d.* in the pound without notifying their intention to do so and, on demand, submitting the proposal to a vote of the electors.

In Great Britain there is no general power in local authorities to take a poll on a specific subject, but there are still certain cases in which the consent of the electors is required by law. As regards the parishes, indeed, where they are too small to have a parish council, the parish meeting is in fact an assembly of all the electors, and even where there is a parish council, the consent of the parish meeting is necessary on a number of points before the council can take action. Under the Borough Funds Acts a borough or urban district council must obtain the consent of the electors before charging any

expenses in connection with the promotion of a Bill in Parliament. The Royal Commission on Local Government, in their First Report, recommend that this requirement be abolished as regards any Bill for the constitution or extension of a county borough, on the ground that "in large towns . . . the provision for a public meeting of the electors cannot be carried into effect properly, and is open to abuse, and that the provision for taking a poll seems to be on the whole ineffective and to have no advantage over a decision of the town council themselves as an indication of the views of the electors."

#### A GENERAL COMPARISON

The quotation in the last paragraph is a very significant indication of the attitude of the English mind towards the whole question of local government. The locally elected council is looked upon as fully representative of the views of the electors, and in it, and in it alone, are vested whatever powers of local self-government Parliament grants to local authorities.

For this reason, the status of the elected council in local government stands, perhaps, higher in Great Britain than in any other country, and, since the powers granted to most of the local authorities are very wide and, with few exceptions, there is no limit on the amount of rate which they may raise, their freedom of action is extensive. On the other hand it is open to the central departments to intervene as regards a great many details of local government, mainly, but not entirely, on the ground of the Government grant-in-aid.

The most complete freedom from external control is enjoyed probably by the cities in those states of North America which have adopted the system of the "home rule charter" and by the towns in Canada and Australia, while the German towns also have very independent powers of administration, but it must be remembered that the government of the latter is largely bureaucratic.

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Taking the local government of a country as a whole, the greatest freedom appears to be found in Switzerland, more especially in the German cantons. There it would seem that any commune, whether urban or rural, can undertake almost any public enterprise at its own discretion, such control as is exercised by the cantons being almost exclusively confined to those subjects, such as the security police, which are strictly cantonal functions, delegated by the cantons to the communes as their agents.

Apart from Great Britain, Switzerland and (with the limitations mentioned) the towns of Germany, the countries of Europe are generally attached to the more centralised and bureaucratic system, of which France is the model and the most complete exemplification. Spanish legislation, however, has noticeably broken away from this tradition, while the local authorities in Sweden, Finland, and, to a lesser extent, some of the other northern countries, enjoy a decidedly fuller freedom than do those in the centre and south of Europe. Under the Japanese system the local authorities are largely under State control.

In the United States and the British Dominions (other than British India, which is a wholly exceptional case) there is considerable local autonomy, but whereas in the Dominions the British system of participation of the electors through large and fully responsible representative councils is generally recognised in principle, this is not the case in the United States, where the idea of local government rather resembles that of a business concern.

### TENDENCIES TOWARDS CHANGE

The number of Acts relating to local government which have been passed in different countries during recent years, and the proposals for further changes which are being discussed on all sides, form a very striking phenomenon at the present time. In Europe it is true that, in spite of the opportunity which is given by the drafting of

new local government constitutions for each of the German states and by the reorganisation of administration generally in the countries of the Middle East, few new principles have as yet made their appearance.

It is rather in the United States of America than in any other country of the world that genuine new developments in local government are taking place. Most of these are concerned with the form of town government rather than with the relation of that government to any outside authority. As regards the latter point, however, there appears to be, very generally, a decided move in two directions, namely, towards a greater freedom of the towns (or cities, as they are called in America) from control by the state and at the same time towards a more complete control by the state over all rural local authorities, or rather a greater monopolisation by the state of the government of its whole area outside the cities.

Although these two movements may seem at first sight to be in opposite directions, this is not really the case. They are both based on a new realisation of the importance to the life of the community of sound and efficient local government, including in that term various undertakings which were formerly left to private enterprise. This importance once fully recognised, it becomes essential to have local government units of sufficient area, population and financial resources to be able to employ the most competent officials and to establish and maintain the required services and, having found these units, not to hamper their activities by subjecting them to any form of tutelage. The individual cities are considered to satisfy the test, except in certain cases where, for instance, an electricity service concern serves a number of municipalities. Apart from the cities, no area smaller than the state is considered capable, in these modern times, of standing by itself, and therefore the state is, more and more, becoming recognised as itself the authority for an increasing number of public services and at the same time is taking to itself more power to control the individual

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local authorities for the rural areas in the interests of the community as a whole.

This tendency—which may almost be called world-wide—towards the adoption of larger areas of administration for certain public services, does not, of course, necessarily imply greater centralisation. Thus, the Irish Free State has abolished the rural district councils, but the county councils, to whom their powers and duties are transferred, are genuine local authorities; the enhancing of the powers of the “circles” in Prussia as against the communes stands on much the same footing, but is more far-reaching in some respects (though no minor authorities are being actually abolished) and is meeting with greater opposition than is likely to be experienced in Ireland.

### CENTRALISATION AND DECENTRALISATION IN SPECIFIC SERVICES

If we consider the question of centralisation in relation to certain specific branches of administration, it will be noticed that, in the matter of road construction and maintenance, the need for a large area of administration and the actual assumption by the central Government of responsibilities which formerly belonged to local authorities show a tendency to coincide. In certain countries, as France, a central highways department, responsible for the construction and maintenance of national highways, is fully established. The present-day policy is more generally that of providing substantial grants to local authorities for the principal roads, the central department supervising the work which the local authorities carry out. This policy is now adopted in many countries, including Great Britain, and it is possible that in some of them it may develop into the more complete centralisation of road construction and maintenance by a central department.

Education is a subject which, even where it is administered by elected local bodies, is as a rule very largely

subject to central control. In France the centralisation of education is almost as complete as possible, even the appointment of teachers being in the hands of the representatives of the central Government and the whole of the expenditure being met from State funds. In Spain also it is centralised, but in Italy is mainly on a regional basis. Norway has a national system, with expenses borne centrally, whereas both Denmark and Sweden administer it locally, the former as a county, the latter as a communal function. In Germany it is a branch of the local state administration. In England and Wales it is a definite function of the local authorities, subject to the Board of Education, while in Scotland it is administered by *ad hoc* bodies, similarly subject to a central department. The greatest local freedom in the matter of education, so far as the European countries are concerned, is to be found in Belgium, Holland and Switzerland, and it is to be noted that in Holland private associations for educational purposes are encouraged side by side with the municipal organisation.

In the United States of America education is very distinctly a local function exercised by *ad hoc* bodies, and the same is the case in Canada, with the exception of the province of Quebec. In Australia, New Zealand, and South Africa, on the other hand, it is directly under the state or province. In Japan it is a matter for the local authorities.

Public health administration is necessarily a local function in a certain sense, but in those countries in which sanitary regulations are looked upon as part of the "police" administration it is very directly subject to the supervision of local State officials. Thus, in Germany the burgomaster is responsible in the towns and elsewhere the Bezirk authorities. Similarly, in France the mayor and not the communal council is responsible. In Denmark the medical officers of health, whether county or district, are all officials of the central Government.

In Great Britain, on the other hand, sanitary inspection

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is carried out by local officials and the local elected councils are responsible for the whole administration, the concern of the central Government being to establish a certain national minimum by means of general legislation, model by-laws and regulations and a supervision of a very general character.

These and all other administrative subjects are necessarily affected by the question of finance, and it is from the point of view of finance that changes as between centralised and decentralised organisation are most apt to be regarded at the present time. In almost every country the cry is going up that the central Government is so restricting the taxing powers of the local authorities that they cannot find the means adequately to discharge their functions, and in this respect there can be no question that, if only for the time being, centralisation has made an advance in recent years. This applies in particular to Germany, Belgium and Holland, but most of the Continental countries have felt it to some extent.

A certain increase of the central power which has shown itself in Great Britain is also connected with finance, though not on the same grounds. Here it is not due to competition between the State and the local authorities for the produce of taxation, but to a claim by the State to ensure that good value is given in return for the grants received by the local authorities from the National Exchequer.

Although there has been a considerable amount of fresh legislation establishing the powers and duties of local authorities on a firmer and more definite basis, it would appear that the Governments of those countries in which control is normally exercised over the proceedings of local authorities have shown no disposition to loose their grasp. On the other hand, the demands of the communes and other local authorities for greater autonomy are probably more vociferous than they have ever been, and this may mean that the process of centralisation will before long meet with a check.

## CONCLUSION

The foregoing pages, it has been already intimated, contain nothing more than an attempt to describe, in outline, the framework of the local government system in each country. Were it possible to compare the working and results of each system, this would undoubtedly be more interesting. Such a comparison, however, could never be made from information acquired from statutes, reports and text-books. Vital and other statistics can tell something, but the actual effect of a system of government on the life of the people can be judged only by experience, and few have sufficient experience of the life of different peoples to be able accurately to compare the one with the other.

One thing, however, can safely be said, namely, that wherever there is a wide demand for a change in the local government system, the existing system is obviously unsatisfactory. Judged by this criterion, there are a number of countries in which, for one reason or another, the actual framework of local government fails to pass the test. In these countries people would be wise to look round to see whether, elsewhere in the world, remedies have been found for the particular difficulties with which they are confronted. It is not suggested that this little volume contains the answers to these questions, but, slight as it is, it may at least serve to indicate possible sources of more detailed information.





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